



Senate

General Assembly

File No. 252

January Session, 2011

Substitute Senate Bill No. 1110

Senate, March 29, 2011

The Committee on Banks reported through SEN. DUFF of the 25th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CONSUMER CREDIT LICENSES AND THE CONNECTICUT UNIFORM SECURITIES ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-1 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 This title shall be known as the "Banking Law of Connecticut" and
4 shall be applicable to all Connecticut banks, Connecticut credit unions,
5 mortgage lenders, mortgage correspondent lenders, [mortgage loan
6 originators and] mortgage brokers, mortgage loan originators, loan
7 processors or underwriters, money order and travelers check licensees,
8 check cashing service licensees, trustees under mortgages or deeds of
9 trust of real property securing certain investments, corporations
10 exercising fiduciary powers, small loan licensees, sales finance
11 companies, mortgage servicing companies, debt adjusters, persons
12 offering or engaging in debt negotiation and to such other persons as
13 subject themselves to the provisions of this title or who, by violating
14 any of its provisions, become subject to the penalties provided in this

15 title.

16 Sec. 2. Subsection (e) of section 36a-21 of the general statutes is
17 repealed and the following is substituted in lieu thereof (*Effective*
18 *October 1, 2011*):

19 (e) The confidentiality provisions of this section shall not apply to
20 records relating to the employment history of, and publicly
21 adjudicated disciplinary and enforcement actions against, mortgage
22 loan originators or loan processors or underwriters that are included in
23 the system for access by the public.

24 Sec. 3. Subsection (c) of section 36a-51 of the general statutes is
25 repealed and the following is substituted in lieu thereof (*Effective from*
26 *passage*):

27 (c) Any licensee may surrender any license issued by the
28 commissioner under any provision of the general statutes by
29 surrendering the license to the commissioner in person or by
30 registered or certified mail, [but such surrender] provided, in the case
31 of a license issued pursuant to part I of chapter 668, such surrender
32 shall be initiated by filing a request to surrender on the system, as
33 defined in section 36a-485, as amended by this act, in accordance with
34 section 36a-490, as amended by this act. Surrender of a license shall not
35 affect the licensee's civil or criminal liability, or affect the
36 commissioner's ability to impose an administrative penalty on the
37 licensee pursuant to section 36a-50 for acts committed prior to the
38 surrender. If, prior to receiving the license, or, in the case of a license
39 issued pursuant to part I of chapter 668, prior to the filing of a request
40 to surrender a license under section 36a-490, as amended by this act,
41 the commissioner has instituted a proceeding to suspend, revoke or
42 refuse to renew such license, such surrender or request to surrender
43 will not become effective except at such time and under such
44 conditions as the commissioner by order determines. If no proceeding
45 is pending or has been instituted by the commissioner at the time of
46 surrender, or, in the case of a license issued pursuant to part I of
47 chapter 668, at the time a request to surrender is filed, the

48 commissioner may still institute a proceeding to suspend, revoke or
49 refuse to renew a license under subsection (a) of this section up to the
50 date one year after the date of receipt of the license by the
51 commissioner, or, in the case of a license issued pursuant to part I of
52 chapter 668, up to the date one year after the date of the acceptance by
53 the commissioner of a request to surrender a license under section 36a-
54 490, as amended by this act.

55 Sec. 4. Section 36a-53b of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective October 1, 2011*):

57 No [licensee or registrant] person shall, in connection with [the] any
58 activity [for which such person is licensed or registered] subject to the
59 jurisdiction of the commissioner: (1) Employ any device, scheme or
60 artifice to defraud; (2) make any untrue statement of a material fact or
61 omit to state a material fact necessary in order to make the statements
62 made, in the light of the circumstances under which they are made, not
63 misleading; or (3) engage in any act, practice, or course of business
64 which operates or would operate as a fraud or deceit upon any person.

65 Sec. 5. Subdivision (6) of subsection (c) of section 36a-65 of the
66 general statutes is repealed and the following is substituted in lieu
67 thereof (*Effective from passage*):

68 (6) A licensee under section 36a-489, 36a-541, 36a-556, 36a-581, 36a-
69 600, 36a-628, 36a-656, 36a-671, as amended by this act, or 36a-801 shall
70 pay to the commissioner the actual cost of any examination of the
71 licensee, as such cost is determined by the commissioner. If the licensee
72 fails to pay such cost not later than sixty days after receipt of demand
73 from the commissioner, the commissioner may suspend the license
74 until such costs are paid.

75 Sec. 6. Subsection (b) of section 36a-299 of the general statutes is
76 repealed and the following is substituted in lieu thereof (*Effective from*
77 *passage*):

78 (b) A Connecticut bank may permit transfers by negotiable

79 withdrawal order from savings accounts in which any beneficial
80 interest is held by a corporation, partnership, association or other
81 organization operated for profit, provided under the terms of the
82 deposit contract or by practice of the bank, the depositor may make no
83 more [than three] transfers [by negotiable withdrawal order or check
84 made by the depositor during any month or statement cycle of at least
85 four weeks. The limitation on transfers in this subsection does not
86 apply to (1) preauthorized or automatic transfers made by a means
87 other than negotiable withdrawal order or check made by the
88 depositor; (2) telephone transfers; (3) transfers to the bank at which the
89 savings account is held to repay loans and associated expenses and to
90 cover overdrafts; or (4) transfers to another account the depositor has
91 at the bank and withdrawals when the transfers or withdrawals are
92 made by mail, messenger, automated teller machine or in person] than
93 the number of transfers permitted under 12 CFR 204.2(d)(2).

94 Sec. 7. Subdivision (10) of section 36a-485 of the general statutes is
95 repealed and the following is substituted in lieu thereof (*Effective*
96 *October 1, 2011*):

97 (10) ["Loan processor" or "underwriter"] "Loan processor or
98 underwriter" means an individual who performs clerical or support
99 duties. [as an employee at the direction of and subject to the
100 supervision and instruction of a person licensed or exempt from
101 licensing under sections 36a-485 to 36a-498a, inclusive, and sections
102 36a-534a and 36a-534b.] The term "clerical or support duties" includes,
103 subsequent to the receipt of an application, (A) the receipt, collection,
104 distribution and analysis of information common for the processing or
105 underwriting of a residential mortgage loan, and (B) communication
106 with a consumer to obtain the information necessary for the processing
107 or underwriting of a loan to the extent that such communication does
108 not include offering or negotiating loan rates or terms or counseling
109 consumers about residential mortgage loan rates or terms;

110 Sec. 8. Subdivision (15) of section 36a-485 of the general statutes is
111 repealed and the following is substituted in lieu thereof (*Effective*

112 *October 1, 2011*):

113 (15) "Mortgage loan originator" means an individual who for
114 compensation or gain or with the expectation of compensation or gain
115 (A) takes a residential mortgage loan application, or (B) offers or
116 negotiates terms of a residential mortgage loan. "Mortgage loan
117 originator" does not include (i) an individual engaged solely as a loan
118 processor or underwriter; [except as otherwise provided in subdivision
119 (3) of subsection (b) of section 36a-486;] (ii) a person who only
120 performs real estate brokerage activities and is licensed in accordance
121 with chapter 392, unless the person is compensated by a mortgage
122 lender, mortgage correspondent lender, mortgage broker or other
123 mortgage loan originator or by any agent of such mortgage lender,
124 mortgage correspondent lender, mortgage broker or other mortgage
125 loan originator; (iii) a person solely involved in extensions of credit
126 relating to timeshare plans, as that term is defined in Paragraph 53D of
127 11 USC 101; or (iv) any individual who solely renegotiates terms for
128 existing mortgage loans on behalf of a mortgagee and who does not
129 otherwise act as a mortgage loan originator, unless the United States
130 Department of Housing and Urban Development or a court of
131 competent jurisdiction determines that the S.A.F.E. Mortgage
132 Licensing Act of 2008, 12 USC Section 5101 et seq., requires such
133 individual to be licensed as a mortgage loan originator under state
134 laws implementing said S.A.F.E. Mortgage Licensing Act;

135 Sec. 9. Subdivision (26) of section 36a-485 of the general statutes is
136 repealed and the following is substituted in lieu thereof (*Effective*
137 *October 1, 2011*):

138 (26) "System" means the Nationwide Mortgage Licensing System
139 and Registry developed and maintained by the Conference of State
140 Bank Supervisors and the American Association of Residential
141 Mortgage Regulators for the licensing and registration of mortgage
142 lenders, mortgage correspondent lenders, mortgage brokers, [and]
143 mortgage loan originators and loan processors or underwriters;

144 Sec. 10. Subsection (b) of section 36a-486 of the general statutes is

145 repealed and the following is substituted in lieu thereof (*Effective*
146 *October 1, 2011*):

147 (b) (1) No person licensed as a mortgage lender, mortgage
148 correspondent lender or mortgage broker shall engage the services of a
149 mortgage loan originator or of a loan processor or underwriter
150 required to be licensed under subdivision (3) of this subsection unless
151 such mortgage loan originator or loan processor or underwriter is
152 licensed under section 36a-489, as amended by this act. An individual,
153 unless specifically exempted under subdivision (2) of this subsection,
154 shall not engage in the business of a mortgage loan originator on
155 behalf of a licensee or a person exempt under section 36a-487, as
156 amended by this act, with respect to any [dwelling, as defined in
157 Section 103 of the Consumer Credit Protection Act, 15 USC 1602,
158 located in this state] residential mortgage loan without first obtaining
159 and maintaining annually a license as a mortgage loan originator
160 under section 36a-489, as amended by this act. Each licensed mortgage
161 loan originator and each loan processor or underwriter shall register
162 with and maintain a valid unique identifier issued by the system. No
163 individual may act as a mortgage loan originator for more than one
164 person at the same time. The license of a mortgage loan originator or a
165 loan processor or underwriter is not effective during any period when
166 such mortgage loan originator or a loan processor or underwriter is
167 not sponsored by a licensed mortgage lender, mortgage correspondent
168 lender or mortgage broker, or by a person registered as an exempt
169 registrant under subsection (c) of section 36a-487, as amended by this
170 act, or during any period in which the license of the mortgage lender,
171 mortgage correspondent lender or mortgage broker with whom such
172 originator or loan processor or underwriter is associated has been
173 suspended. Either the mortgage loan originator, the loan processor or
174 underwriter or the [mortgage lender, mortgage correspondent lender
175 or mortgage broker] sponsor may file a notification of the termination
176 of sponsorship [of a mortgage loan originator] with the system.

177 (2) The following are exempt from this section: (A) A registered
178 mortgage loan originator or an employee of an institution or

179 subsidiary described in subdivision (20) of section 36a-485, who is not
180 required to be registered under Section 1507 of the S.A.F.E. Mortgage
181 Licensing Act of 2008, when acting for such institution or subsidiary,
182 (B) an individual who offers or negotiates the terms of a residential
183 mortgage loan with or on behalf of an immediate family member of
184 such individual, (C) an individual who offers or negotiates the terms of
185 a residential mortgage loan secured by a dwelling, as defined in
186 Section 103 of the Consumer Credit Protection Act, 15 USC 1602, that
187 served as the individual's residence, and (D) a licensed attorney who
188 negotiates the terms of a residential mortgage loan on behalf of a client
189 as an ancillary matter to the attorney's representation of the client,
190 unless the attorney is compensated by a mortgage lender, mortgage
191 correspondent lender, mortgage broker or other mortgage loan
192 originator or by any agent of such mortgage lender, mortgage
193 correspondent lender, mortgage broker or other mortgage loan
194 originator.

195 (3) [Effective July 31, 2010, a] A loan processor or underwriter who
196 is: [an] (A) An independent contractor, or (B) employed by any person
197 other than: (i) A licensed mortgage lender, mortgage correspondent
198 lender or mortgage broker; or (ii) any person exempt from such
199 licensure under subdivision (1) of subsection (a) of section 36a-487, as
200 amended by this act, may not engage in the activities of a loan
201 processor or underwriter unless such [independent contractor] loan
202 processor or underwriter obtains and maintains a license as a
203 [mortgage loan originator] loan processor or underwriter under
204 section 36a-489, as amended by this act. [Each independent contractor
205 loan processor or underwriter licensed as a mortgage loan originator
206 shall have and maintain a valid unique identifier issued by the
207 system.]

208 (4) An individual engaging solely in loan processor or underwriter
209 activities shall not represent to the public, through advertising or other
210 means of communicating or providing information, including the use
211 of business cards, stationery, brochures, signs, rate lists or other
212 promotional items, that such individual can or will perform any of the

213 activities of a mortgage loan originator.

214 Sec. 11. Section 36a-487 of the general statutes is repealed and the
215 following is substituted in lieu thereof (*Effective October 1, 2011*):

216 (a) The following are exempt from licensing as a mortgage lender,
217 mortgage correspondent lender or mortgage broker under sections
218 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-534a and
219 36a-534b, as amended by this act: (1) Any bank, out-of-state bank,
220 Connecticut credit union, federal credit union or out-of-state credit
221 union, provided such bank or credit union is federally insured, any
222 operating subsidiary of a federal bank or federally-chartered out-of-
223 state bank or any wholly-owned subsidiary of a Connecticut bank or a
224 Connecticut credit union; (2) any person licensed under sections 36a-
225 671 to 36a-671d, inclusive, as amended by this act, or exempt from
226 licensure under section 36a-671c, as amended by this act, who is
227 negotiating or offering to negotiate terms of a residential mortgage
228 loan as authorized by said sections 36a-671 to 36a-671d, inclusive; and
229 (3) any person engaged solely in providing loan processing or
230 underwriting services to persons (A) licensed as a mortgage lender,
231 mortgage correspondent lender or mortgage broker, or (B) exempt
232 from such licensure under subdivision (1) of this subsection. Each
233 wholly-owned subsidiary of a Connecticut bank or Connecticut credit
234 union that engages in the business of making residential mortgage
235 loans or acts as a mortgage broker in this state shall provide written
236 notification to the commissioner prior to engaging in such activity.

237 (b) The following are exempt from licensing as a mortgage lender or
238 mortgage correspondent lender under sections 36a-485 to 36a-498f,
239 inclusive, 36a-534a and 36a-534b:

240 (1) Persons making five or fewer residential mortgage loans within
241 any period of twelve consecutive months, provided nothing herein
242 shall relieve such persons from complying with all applicable laws;

243 (2) Bona fide nonprofit corporations making residential mortgage
244 loans to promote home ownership for the economically

245 disadvantaged;

246 (3) Agencies of the federal government, or any state or municipal
247 government, or any quasi-governmental agency making residential
248 mortgage loans under the specific authority of the laws of any state or
249 the United States;

250 (4) Persons licensed under sections 36a-555 to 36a-573, inclusive, as
251 amended by this act, when making residential mortgage loans
252 authorized by said sections;

253 (5) Persons owning real property who take back from the buyer of
254 such property a secondary mortgage loan in lieu of any portion of the
255 purchase price of the property;

256 (6) Any corporation or its affiliate that makes residential mortgage
257 loans exclusively for the benefit of its employees or agents;

258 (7) Any corporation, licensed in accordance with section 38a-41, or
259 its affiliate or subsidiary, that makes residential mortgage loans to
260 promote home ownership in urban areas;

261 (8) Persons acting as fiduciaries with respect to any employee
262 pension benefit plan qualified under the Internal Revenue Code of
263 1986, or any subsequent corresponding internal revenue code of the
264 United States, as from time to time amended, who make residential
265 mortgage loans solely to plan participants from plan assets; and

266 (9) Persons making secondary mortgage loans to individuals related
267 to the maker by blood or marriage.

268 (c) Any person exempt from licensure under this section may
269 register on the system as an exempt registrant for purposes of
270 sponsoring a mortgage loan originator or a loan processor or
271 underwriter pursuant to subdivision (1) of subsection (b) of section
272 36a-486, as amended by this act. Such registration shall not affect the
273 exempt status of such person.

274 Sec. 12. Subsection (b) of section 36a-488 of the general statutes is
275 repealed and the following is substituted in lieu thereof (*Effective from*
276 *passage*):

277 (b) The commissioner may issue a mortgage lender license, a
278 mortgage correspondent lender license, or a mortgage broker license.
279 Each mortgage lender licensee may also act as a mortgage
280 correspondent lender and a mortgage broker, and each mortgage
281 correspondent lender licensee may also act as a mortgage broker. On
282 and after July 1, 2008, an application for a license as a mortgage lender,
283 mortgage correspondent lender or mortgage broker office or renewal
284 of such license shall be filed, in a form prescribed by the commissioner,
285 with the system. Each such form shall contain content as set forth by
286 instruction or procedure of the commissioner and may be changed or
287 updated as necessary by the commissioner in order to carry out the
288 purpose of sections 36a-21, 36a-485 to 36a-498f, inclusive, 36a-534a and
289 36a-534b, as amended by this act. The applicant shall, at a minimum,
290 furnish to the system information concerning the identity of the
291 applicant, any control person of the applicant, the qualified individual
292 and any branch manager, including personal history and experience in
293 a form prescribed by the system and information related to any
294 administrative, civil or criminal findings by any governmental
295 jurisdiction. The following supplementary information shall be filed
296 directly with the commissioner: (1) In the case of an initial application
297 for a license for the main office, (A) a financial statement as of a date
298 not more than twelve months prior to the filing of the application
299 which reflects tangible net worth, and if such financial statement is
300 unaudited, the proprietor, general partner, or duly authorized officer,
301 trustee or member shall swear to its accuracy under oath before a
302 notary public, [(2)] and (B) a bond as required by section 36a-492, as
303 amended by this act; [(3)] (2) evidence that the qualified individual or
304 branch manager meets the experience required by subsection (a) of this
305 section; and [(4)] (3) such other information pertaining to the applicant,
306 the applicant's background, the background of its principals,
307 employees, [and] mortgage loan originators, and loan processors or
308 underwriters, and the applicant's activities as the commissioner may

309 require. For the purpose of this subsection, evidence of experience of
310 the qualified individual or branch manager shall include: (A) A
311 statement specifying the duties and responsibilities of such person's
312 employment, the term of employment, including month and year, and
313 the name, address and telephone number of a supervisor, employer or,
314 if self-employed, a business reference; and (B) if required by the
315 commissioner, copies of W-2 forms, 1099 tax forms or, if self-
316 employed, 1120 corporate tax returns, signed letters from the employer
317 on the employer's letterhead verifying such person's duties and
318 responsibilities and term of employment including month and year,
319 and if such person is unable to provide such letters, other proof
320 satisfactory to the commissioner that such person meets the experience
321 requirement. The commissioner may conduct a criminal history
322 records check of the applicant, any control person of the applicant and
323 the qualified individual or branch manager with supervisory authority
324 at the office for which the license is sought and require the applicant to
325 submit the fingerprints of such persons and authorization of such
326 persons for the system and the commissioner to obtain an independent
327 credit report from a consumer reporting agency, as described in
328 Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as part
329 of the application.

330 Sec. 13. Subsection (c) of section 36a-488 of the general statutes is
331 repealed and the following is substituted in lieu thereof (*Effective*
332 *October 1, 2011*):

333 (c) (1) The commissioner may issue a mortgage loan originator
334 license or a loan processor or underwriter license. Each mortgage loan
335 originator licensee may also act as a loan processor or underwriter. An
336 application to license [a person] an individual as a mortgage loan
337 originator or a loan processor or underwriter for a specified office or
338 renewal of such license shall be filed, in a form prescribed by the
339 commissioner, with the system. Each such form shall contain content
340 as set forth by instruction or procedure of the commissioner and may
341 be changed or updated as necessary by the commissioner in order to
342 carry out the purpose of sections 36a-485 to 36a-498f, inclusive, 36a-

343 534a and 36a-534b, as amended by this act. The applicant shall, at a
344 minimum, furnish to the system, in a form prescribed by the system,
345 information concerning the applicant's identity, including personal
346 history and experience and information related to any administrative,
347 civil or criminal findings by any governmental jurisdiction. Effective
348 April 1, 2010, each applicant for a mortgage loan originator license
349 and, effective October 1, 2011, each applicant for a loan processor or
350 underwriter license, shall furnish to the system fingerprints for
351 submission to the Federal Bureau of Investigation and any
352 governmental agency or entity authorized to receive such information
353 for a state, national and international criminal history background
354 check. Effective the later of July 31, 2010, or thirty days after the date
355 the system commences accepting such authorizations for processing,
356 each applicant shall furnish authorization for the system and the
357 commissioner to obtain an independent credit report from a consumer
358 reporting agency, as described in Section 603(p) of the Fair Credit
359 Reporting Act, 15 USC 1681a.

360 (2) Not later than April 1, 2010, each mortgage loan originator
361 licensee shall furnish to the system fingerprints for submission to the
362 Federal Bureau of Investigation and any governmental agency or
363 entity authorized to receive such information for a state, national and
364 international criminal history background check. By July 31, 2010, or
365 thirty days after the system commences accepting such authorizations
366 for processing, whichever is later, each such licensee shall furnish
367 authorization for the system and the commissioner to obtain an
368 independent credit report obtained from a consumer reporting agency
369 described in Section 603(p) of the Fair Credit Reporting Act, 15 USC
370 1681a.

371 Sec. 14. Subdivision (2) of subsection (a) of section 36a-489 of the
372 general statutes is repealed and the following is substituted in lieu
373 thereof (*Effective October 1, 2011*):

374 (2) (A) The minimum standards for license renewal for a mortgage
375 lender, mortgage correspondent lender or mortgage broker shall

376 include the following: (i) The applicant continues to meet the
377 minimum standards under subdivision (1) of this subsection; (ii)
378 effective April 1, 2010, each qualified person and branch manager has
379 completed the prelicensing education requirement described in section
380 36a-489a, as amended by this act, and passed a written test that meets
381 the test requirement described in section 36a-489a, as amended by this
382 act, or has satisfied the annual continuing education requirements
383 described in subsection (c) of section 36a-489a, as amended by this act,
384 as applicable; and (iii) the mortgage lender, mortgage correspondent
385 lender or mortgage broker has paid all required fees for renewal of the
386 license.

387 (B) The license of a mortgage lender, mortgage correspondent
388 lender or mortgage broker failing to satisfy the minimum standards for
389 license renewal shall expire. The commissioner may adopt procedures
390 for the reinstatement of expired licenses consistent with the standards
391 established by the system. The commissioner may automatically
392 suspend a mortgage lender, mortgage correspondent lender or
393 mortgage broker license if the licensee receives a deficiency on the
394 system indicating that the payment required by subparagraph (A) of
395 this subdivision was Returned-ACH or returned pursuant to such
396 other term as may be utilized by the system to indicate that the
397 payment was not accepted. After a license has been automatically
398 suspended pursuant to this section, the commissioner shall give such
399 licensee notice of the automatic suspension, pending proceedings for
400 revocation or refusal to renew pursuant to section 36a-494, as amended
401 by this act, and an opportunity for a hearing on such action in
402 accordance with section 36a-51, as amended by this act, and require
403 such licensee to take or refrain from taking such action that, in the
404 opinion of the commissioner, will effectuate the purposes of this
405 section.

406 Sec. 15. Subsection (b) of section 36a-489 of the general statutes is
407 repealed and the following is substituted in lieu thereof (*Effective*
408 *October 1, 2011*):

409 (b) (1) The commissioner shall not issue an initial license for a
410 mortgage loan originator or a loan processor or underwriter unless the
411 commissioner, at a minimum, finds that the applicant has: (A) Never
412 had a mortgage loan originator or equivalent loan processor or
413 underwriter license revoked in any governmental jurisdiction, except
414 that a subsequent formal vacating of such revocation shall not be
415 deemed a revocation; (B) notwithstanding the provisions of section
416 46a-80, not been convicted of, or pled guilty or nolo contendere to, a
417 felony in a domestic, foreign or military court during the seven-year
418 period preceding the date of the application for licensing or at any
419 time preceding such date of application if such felony involved an act
420 of fraud, dishonesty, a breach of trust, or money laundering, provided
421 any pardon of a conviction shall not be a conviction for purposes of
422 this subdivision; (C) demonstrated financial responsibility, character
423 and general fitness so as to command the confidence of the community
424 and to warrant a determination that the mortgage loan originator or
425 loan processor or underwriter will operate honestly, fairly and
426 efficiently within the [purpose] purposes of sections 36a-485 to 36a-
427 498f, inclusive, 36a-534a and 36a-534b, as amended by this act; (D) for
428 mortgage loan originator applicants, effective April 1, 2010, and for
429 loan processor or underwriter applicants, effective October 1, 2011,
430 completed the preclicensing education requirement described in section
431 36a-489a, as amended by this act, and passed a written test that meets
432 the test requirement described in section 36a-489a, as amended by this
433 act; (E) effective July 31, 2010, met the surety bond requirement under
434 section 36a-492 and, effective October 1, 2011, in the case of a mortgage
435 loan originator required to be licensed under section 41 of this act, met
436 the surety bond requirements under sections 36a-492 and 36a-671d, as
437 amended by this act; and (F) not made a material misstatement in the
438 application. If the commissioner denies an application for a mortgage
439 loan originator or a loan processor or underwriter license, the
440 commissioner shall notify the applicant and may notify the sponsor or
441 any other person the commissioner deems appropriate of the denial
442 and the reasons for such denial.

443 (2) (A) The minimum standards for license renewal for a mortgage

444 loan originator or a loan processor or underwriter shall include the
445 following: (i) The [mortgage loan originator] licensee continues to meet
446 the minimum standards for license issuance under subdivision (1) of
447 this subsection; (ii) the [mortgage loan originator] licensee has satisfied
448 the annual continuing education requirements described in subsection
449 (c) of section 36a-489a, as amended by this act; and (iii) the [mortgage
450 loan originator] licensee has paid all required fees for renewal of the
451 license.

452 (B) The license of a mortgage loan originator or a loan processor or
453 underwriter that fails to satisfy the minimum standards for license
454 renewal shall expire. The commissioner may adopt procedures for the
455 reinstatement of expired licenses consistent with the standards
456 established by the system. The commissioner may automatically
457 suspend a mortgage loan originator or a loan processor or underwriter
458 license if the licensee receives a deficiency on the system indicating
459 that the payment required by subparagraph (A) of subdivision (2) of
460 this subsection was Returned-ACH or returned pursuant to such other
461 term as may be utilized by the system to indicate that the payment was
462 not accepted. After a license has been automatically suspended
463 pursuant to this section, the commissioner shall give such licensee
464 notice of the automatic suspension, pending proceedings for
465 revocation or refusal to renew pursuant to section 36a-494, as amended
466 by this act, and an opportunity for a hearing on such action in
467 accordance with section 36a-51, as amended by this act, and require
468 such licensee to take or refrain from taking such action that, in the
469 opinion of the commissioner, will effectuate the purposes of this
470 section.

471 (3) [No] Not later than April 1, 2010, each mortgage loan originator
472 licensee shall have completed the preclicensing education requirement
473 described in section 36a-489a, as amended by this act, and passed a
474 written test that meets the test requirement described in section 36a-
475 489a, as amended by this act, provided a mortgage loan originator
476 licensee who was licensed as of the enactment of public act 09-209 shall
477 have completed such preclicensing education requirement and passed

478 such written test not later than October 31, 2010.

479 Sec. 16. Subsection (e) of section 36a-489 of the general statutes is
480 repealed and the following is substituted in lieu thereof (*Effective from*
481 *passage*):

482 (e) [Notwithstanding the provisions of this section, the] The
483 commissioner may deem an application for a license [as a mortgage
484 lender, mortgage correspondent lender, mortgage broker or mortgage
485 loan originator] under this section abandoned if the applicant fails to
486 respond to any request for information required under sections 36a-
487 485 to [36a-498a] 36a-498f, inclusive, as amended by this act, 36a-534a
488 and 36a-534b, as amended by this act, or the regulations adopted
489 pursuant to said sections. The commissioner shall notify the applicant
490 in writing on the system that if such information is not submitted
491 [within] not later than sixty days the application shall be deemed
492 abandoned. An application filing fee paid prior to the date an
493 application is deemed abandoned pursuant to this subsection shall not
494 be refunded. Abandonment of an application pursuant to this
495 subsection shall not preclude the applicant from submitting a new
496 application for a license under said sections 36a-485 to [36a-498a] 36a-
497 498f, inclusive, as amended by this act, 36a-534a and 36a-534b, as
498 amended by this act.

499 Sec. 17. Section 36a-489a of the general statutes is repealed and the
500 following is substituted in lieu thereof (*Effective from passage*):

501 (a) (1) In order to meet the preclicensing education and testing
502 [requirement] requirements referred to in [section] sections 36a-488
503 and 36a-489, as amended by this act, an [applicant] individual shall
504 complete at least twenty hours of education approved in accordance
505 with subdivision (2) of this subsection, which shall include at least (A)
506 three hours of instruction on relevant federal law and regulations; (B)
507 three hours of ethics, including instruction on fraud, consumer
508 protection and fair lending issues; and (C) two hours of training
509 related to lending standards for the nontraditional mortgage product
510 marketplace.

511 (2) For purposes of subdivision (1) of this subsection, prelicensing
512 education courses shall be reviewed and approved by the system
513 based upon reasonable standards. Review and approval of a
514 prelicensing education course shall include review and approval of the
515 course provider.

516 (3) Nothing in this subsection shall preclude any prelicensing
517 education course, as approved by the system, that is provided by the
518 sponsor or employer of the [applicant] individual or an entity which is
519 affiliated with the [applicant] individual by an agency contract, or any
520 subsidiary or affiliate of such sponsor, employer or entity.

521 (4) Prelicensing education may be offered either in a classroom,
522 online or by any other means approved by the system.

523 (5) When prelicensing education requirements described in
524 subdivision (1) of this subsection are completed in another state, such
525 out-of-state prelicensing education requirements shall be accepted as
526 credit towards completion of the prelicensing education requirements
527 of this state, provided such out-of-state prelicensing education
528 requirements are approved by the system.

529 (6) (A) [A person] An individual previously licensed under section
530 36a-489, as amended by this act, subsequent to the applicable effective
531 date of the prelicensing and testing requirements referred to in section
532 36a-489, as amended by this act, who is applying to be [licensed again]
533 relicensed shall prove that such [person] individual has completed all
534 of the continuing education requirements for the year in which the
535 license was last held.

536 (B) An individual who previously held a position as a qualified
537 individual or branch manager subsequent to the applicable effective
538 date of the prelicensing and testing requirements referred to in section
539 36a-488, as amended by this act, may not hold such position again
540 until such individual has completed all of the continuing education
541 requirements for the year in which such individual last held such
542 position.

543 (b) (1) In order to meet the written test [requirement] requirements
544 referred to in [section] sections 36a-488 and 36a-489, as amended by
545 this act, an individual shall pass, in accordance with the standards
546 established under this subsection, a qualified written test developed by
547 the system and administered by a test provider approved by the
548 system based upon reasonable standards.

549 (2) A written test shall not be treated as a qualified written test for
550 purposes of subdivision (1) of this subsection unless the test
551 adequately measures the [applicant's] individual's knowledge and
552 comprehension in appropriate subject areas, including ethics, federal
553 law and regulation pertaining to mortgage origination, state law and
554 regulation pertaining to mortgage origination, and federal and state
555 law and regulation, including instruction on fraud, consumer
556 protection, the nontraditional mortgage marketplace and fair lending
557 issues.

558 (3) Nothing in this subsection shall prohibit a test provider
559 approved by the system from providing a test at the location of the
560 sponsor [of the applicant] or employer, any subsidiary or affiliate of
561 the sponsor [of the applicant] or employer or any entity with which the
562 [applicant] individual holds an exclusive arrangement to conduct the
563 business of a mortgage loan originator or acts as a qualified individual
564 or branch manager.

565 (4) (A) An individual shall not be considered to have passed a
566 qualified written test unless the individual achieves a test score of not
567 less than seventy-five per cent correct answers to questions.

568 (B) An individual may retake a test [three] four consecutive times
569 with each consecutive taking occurring at least thirty days after the
570 preceding test. After failing [three] four consecutive tests, an
571 individual shall wait at least six months before taking the test again.

572 (C) [A licensed mortgage lender, mortgage correspondent lender,
573 mortgage broker or] (i) An individual who was licensed subsequent to
574 the applicable effective date of the prelicensing and testing

575 requirements referred to in section 36a-489, as amended by this act,
576 who has not been licensed as a mortgage loan originator [who fails to
577 maintain a valid license for a period of five years or longer,] within the
578 five-year period preceding the date of the filing of such individual's
579 application for a mortgage loan originator license, not taking into
580 account any time during which such individual is a registered
581 mortgage loan originator, shall retake such test; (ii) a qualified
582 individual or branch manager who held such a position after the
583 effective date of prelicensing education and testing referred to in
584 section 36a-488, as amended by this act, and who has not held such
585 position within the five-year period preceding the date of the filing on
586 the system designating such individual as a qualified individual or
587 branch manager shall retake such test, unless such individual was
588 licensed as a mortgage loan originator during the five-year period
589 preceding the date of the filing on the system designating such
590 individual as a qualified individual or branch manager, not taking into
591 account any time during which such individual is a registered
592 mortgage loan originator; [, shall retake the test] and (iii) effective
593 October 1, 2011, an individual licensed as a loan processor or
594 underwriter who applies to be licensed again shall retake the test if
595 such individual has not been licensed as a loan processor or
596 underwriter within the five-year period preceding the date of the filing
597 of such application, not taking into account any time during which
598 such individual is engaged in loan processing or underwriting but not
599 required to be licensed under subdivision (3) of subsection (b) of
600 section 36a-486, as amended by this act.

601 (c) (1) In order to meet the annual continuing education
602 requirements referred to in [subdivision (2) of subsection (b)]
603 subsections (a) and (b) of section 36a-489, as amended by this act, a
604 licensed mortgage loan originator, a qualified individual or branch
605 manager and, effective October 1, 2011, a licensed loan processor or
606 underwriter, shall complete at least eight hours of education approved
607 in accordance with subdivision (2) of this subsection. Such courses
608 shall include at least (A) three hours of instruction on relevant federal
609 law and regulation; (B) two hours of ethics, including instruction on

610 fraud, consumer protection and fair lending issues; and (C) two hours
611 of training related to lending standards for the nontraditional
612 mortgage product marketplace.

613 (2) For purposes of subdivision (1) of this subsection, continuing
614 education courses shall be reviewed and approved by the system
615 based upon reasonable standards. Review and approval of a
616 continuing education course shall include review and approval of the
617 course provider.

618 (3) Nothing in this subsection shall preclude any education course
619 approved by the system that is provided by the sponsor [of the
620 mortgage loan originator] or employer or an entity that is affiliated
621 with the mortgage loan originator, qualified individual or branch
622 manager or, effective October 1, 2011, loan processor or underwriter by
623 an agency contract, or by any subsidiary or affiliate of such sponsor,
624 employer or entity.

625 (4) Continuing education may be offered either in a classroom,
626 online or by any other means approved by the system.

627 (5) Except as [otherwise] provided in procedures adopted under
628 [subparagraph (B) of subdivision (2) of subsection] subsections (a) and
629 (b) of section 36a-489, as amended by this act, or in regulations
630 adopted under subdivision (9) of this subsection, a licensed mortgage
631 loan originator, qualified individual or branch manager or, effective
632 October 1, 2011, a licensed loan processor or underwriter, may only
633 receive credit for a continuing education course in the year in which
634 the course is taken, and may not take the same approved course in the
635 same or successive years to meet the annual requirements for
636 continuing education.

637 (6) A licensed mortgage loan originator or a qualified individual or
638 branch manager or, effective October 1, 2011, a licensed loan processor
639 or underwriter who is an approved instructor of an approved
640 continuing education course may receive credit for the licensee's own
641 annual continuing education requirement at the rate of two hours

642 credit for every one hour taught.

643 (7) When education requirements described in subdivision (1) of
644 subsection (a) of this section are completed in another state, such out-
645 of-state education requirements shall be accepted as credit towards
646 completion of the education requirements of this state, provided such
647 out-of-state education requirements are approved by the system.

648 (8) A licensed mortgage loan originator and, effective October 1,
649 2011, a licensed loan processor or underwriter who subsequently
650 becomes unlicensed must complete the continuing education
651 requirements for the last year in which the license was held prior to
652 issuance of an initial or renewed license. A qualified individual or
653 branch manager who ceases to hold such position shall complete the
654 continuing education requirements for the last year in which such
655 individual or branch manager held such position prior to holding such
656 position again.

657 (9) A person who meets the requirements of subparagraphs (A)(i)
658 and (A)(iii) of subdivision (2) of subsection (a) or (b) of section 36a-489,
659 as amended by this act, may compensate for any deficiency in
660 continuing education requirements pursuant to regulations adopted
661 by the commissioner.

662 (d) For purposes of this section "nontraditional mortgage product"
663 means any mortgage product other than a thirty-year fixed rate
664 mortgage, [, and "system" has the same meaning as provided in section
665 36a-485.]

666 Sec. 18. Subsections (a) and (b) of section 36a-490 of the general
667 statutes are repealed and the following is substituted in lieu thereof
668 (*Effective from passage*):

669 (a) (1) A mortgage lender, mortgage correspondent lender and
670 mortgage broker license shall not be transferable or assignable. No
671 licensee may use any name other than its legal name or a fictitious
672 name approved by the commissioner, provided such licensee may not

673 use its legal name if the commissioner disapproves use of such name.
674 Any licensee who intends to permanently cease engaging in the
675 business of making residential mortgage loans or acting as a mortgage
676 broker at any time during a license period for any cause, including, but
677 not limited to, bankruptcy [, license revocation] or voluntary
678 dissolution, shall file a request to surrender the license for each office
679 at which the licensee intends to cease to do business, on the system,
680 not later than fifteen days after the date of such cessation, provided
681 this requirement shall not apply when a license has been suspended
682 pursuant to section 36a-51, as amended by this act. No surrender shall
683 be effective until accepted by the commissioner.

684 (2) A mortgage loan originator licensee who intends to permanently
685 cease engaging in the business of a mortgage loan originator at any
686 time during a license period for any cause, including, but not limited
687 to, bankruptcy, shall file a request to surrender the license on the
688 system not later than fifteen days after the date of such cessation,
689 provided this requirement shall not apply when a license has been
690 suspended pursuant to section 36a-51, as amended by this act. No
691 surrender shall be effective until accepted by the commissioner.

692 (3) Effective October 1, 2011, a loan processor or underwriter
693 licensee who intends to permanently cease engaging in the activities of
694 a loan processor or underwriter at any time during a license period for
695 any cause, including, but not limited to, bankruptcy, shall file a request
696 to surrender the license on the system not later than fifteen days after
697 the date of such cessation, provided this requirement shall not apply
698 when a license has been suspended pursuant to section 36a-51, as
699 amended by this act. No surrender shall be effective until accepted by
700 the commissioner.

701 (b) A mortgage lender, mortgage correspondent lender or mortgage
702 broker licensee may change the name of the licensee or address of the
703 office specified on the most recent filing with the system if (1) at least
704 thirty calendar days prior to such change, the licensee files such
705 change with the system and, in the case of a main or branch office,

706 provides, directly to the commissioner, a bond rider or endorsement,
707 or addendum, as applicable, to the surety bond on file with the
708 commissioner that reflects the new name or address of the main or
709 branch office, and (2) the commissioner does not disapprove such
710 change, in writing, or request further information within such thirty-
711 day period. The licensee shall promptly file any change in the
712 information most recently submitted in connection with the license
713 with the system or, if the information cannot be filed on the system,
714 directly notify the commissioner, in writing, of such change in the
715 information.

716 Sec. 19. Subsections (d) and (e) of section 36a-490 of the general
717 statutes are repealed and the following is substituted in lieu thereof
718 (*Effective from passage*):

719 (d) Each mortgage loan originator licensee and, effective October 1,
720 2011, each loan processor or underwriter licensee shall promptly file
721 with the system or, if the information cannot be filed on the system,
722 directly notify the commissioner, in writing, of any change in the
723 information most recently submitted in connection with the license
724 and of the occurrence of any of the following developments:

725 (1) Filing for bankruptcy of the [mortgage loan originator] licensee;

726 (2) Filing of a criminal indictment against the [mortgage loan
727 originator] licensee;

728 (3) Receiving notification of the institution of license or registration
729 denial, cease and desist, suspension or revocation procedures, or other
730 formal or informal regulatory action by any governmental agency
731 against the [mortgage loan originator] licensee and the reasons
732 therefor; or

733 (4) Receiving notification of the initiation of any action against the
734 [mortgage loan originator] licensee by the Attorney General or the
735 attorney general of any other state and the reasons therefor.

736 (e) Each mortgage lender, mortgage correspondent lender,

737 mortgage broker, [and] mortgage loan originator and loan processor or
738 underwriter license shall remain in force and effect until it has been
739 surrendered, revoked or suspended, or until it expires or is no longer
740 effective, in accordance with the provisions of this title.

741 Sec. 20. Section 36a-491 of the general statutes is repealed and the
742 following is substituted in lieu thereof (*Effective October 1, 2011*):

743 (a) The expiration date of any mortgage lender, mortgage
744 correspondent lender and mortgage broker license that expires on
745 September 30, 2008, shall be extended to the close of business on
746 December 31, 2008. On and after July 1, 2008, each mortgage lender,
747 mortgage correspondent lender, mortgage broker, [and] mortgage loan
748 originator and, on and after October 1, 2011, each loan processor or
749 underwriter license shall expire at the close of business on December
750 thirty-first of the year in which it is approved, unless such license is
751 renewed, and provided any such license that is approved on or after
752 November first shall expire at the close of business on December
753 thirty-first of the year following the year in which it is approved. An
754 application for renewal of a license shall be filed between November
755 first and December thirty-first of the year in which the license expires.
756 Each applicant for an initial license or renewal of a license as a
757 mortgage lender or mortgage correspondent lender shall pay to the
758 system any required fees or charges and a license fee of one thousand
759 dollars, and each applicant for an initial or renewal license as a
760 mortgage broker shall pay to the system any required fees or charges
761 and a license fee of five hundred dollars, provided each mortgage
762 lender or mortgage correspondent lender licensee who is a licensee on
763 September 30, 2008, who submits a renewal application shall, at the
764 time of making such application, pay to the system any required fees
765 or charges and a license fee of one thousand one hundred twenty-five
766 dollars and each mortgage broker who was a licensee on June 30, 2008,
767 who submits a renewal application shall, at the time of making such
768 application, pay to the system any required fees or charges and a
769 license fee of five hundred sixty-five dollars. Effective November 1,
770 2009, each applicant for an initial license or renewal of a license as a

771 mortgage loan originator and, effective October 1, 2011, as a loan
772 processor or underwriter, shall pay to the system any required fees or
773 charges and a license fee of three hundred dollars.

774 (b) All fees paid pursuant to this section, including fees paid in
775 connection with an application that is denied or withdrawn prior to
776 the issuance of the license, shall be nonrefundable. [provided any
777 license fee paid by an originator for a license that is not sponsored by a
778 mortgage lender, mortgage correspondent lender or mortgage broker
779 may be refundable.] No fee paid pursuant to this section shall be
780 prorated if the license is surrendered, revoked or suspended prior to
781 the expiration of the period for which it was approved.

782 Sec. 21. Section 36a-492 of the general statutes is repealed and the
783 following is substituted in lieu thereof (*Effective July 1, 2011*):

784 [(a) (1) No mortgage lender, mortgage correspondent lender or
785 mortgage broker license, and no renewal thereof, shall be granted
786 unless the applicant has filed a bond with the commissioner written by
787 a surety authorized to write such bonds in this state, in the sum of
788 forty thousand dollars, the form of which shall be approved by the
789 Attorney General. Effective July 31, 2010, the penal sum of the bond
790 shall be maintained in an amount that reflects the dollar amount of the
791 loans originated by the mortgage lender, mortgage correspondent
792 lender or mortgage broker, as determined by the commissioner.

793 (2) Effective July 31, 2010, each person licensed as a mortgage loan
794 originator shall be covered by a surety bond in accordance with this
795 section, provided such coverage shall be provided through the bond of
796 the mortgage lender, mortgage correspondent lender or mortgage
797 broker who sponsors such mortgage loan originator. The penal sum of
798 the bond shall be maintained in an amount that reflects the dollar
799 amount of loans originated by the mortgage loan originator, as
800 determined by the commissioner. The commissioner may adopt
801 regulations in accordance with chapter 54 with respect to the
802 requirements for such surety bonds.]

803 (a) (1) Each licensed mortgage lender, mortgage correspondent
804 lender and mortgage broker shall file with the commissioner a single
805 surety bond, written by a surety authorized to write such bonds in this
806 state, covering its main office and file an addendum to such bond to
807 cover any branch office, in a penal sum determined in accordance with
808 subsection (d) of this section, provided the penal sum of the bond for
809 licensed mortgage lenders and mortgage correspondent lenders shall
810 be not less than one hundred thousand dollars and the penal sum of
811 the bond for mortgage brokers shall be not less than fifty thousand
812 dollars. The bond shall cover all mortgage loan originators sponsored
813 by such licensee.

814 (2) Each mortgage loan originator licensee shall be covered by a
815 surety bond with a penal sum in an amount that reflects the dollar
816 amount of loans originated by such mortgage loan originator in
817 accordance with subsection (d) of this section, provided such coverage
818 shall be provided through a single surety bond filed with the
819 commissioner by the person who sponsors such mortgage loan
820 originator.

821 (3) Effective October 1, 2011, (A) in the case of an exempt registrant
822 under subdivision (1) of subsection (a) of section 36a-487, as amended
823 by this act, (i) the surety bond shall cover all mortgage loan originators
824 sponsored by such exempt registrant and comply with the
825 requirements set forth in this section, and (ii) the penal sum of such
826 bond shall be in an amount determined in accordance with subsection
827 (d) of this section, provided the penal sum of the bond shall be not less
828 than one hundred thousand dollars; (B) in the case of an exempt
829 registrant under subsection (b) of section 36a-487, as amended by this
830 act, (i) the surety bond shall cover all mortgage loan originators
831 sponsored by such exempt registrant and comply with the
832 requirements set forth in this section, and (ii) the penal sum of the
833 bond shall be in an amount determined in accordance with subsection
834 (d) of this section, provided the penal sum shall be not less than fifty
835 thousand dollars; and (C) in the case of an exempt registrant under
836 subdivision (2) of subsection (a) of section 36a-487, as amended by this

837 act, the surety bond shall cover all mortgage loan originators
838 sponsored by such exempt registrant and comply with the
839 requirements set forth in section 36a-671d, as amended by this act.

840 (4) (A) The principal on a bond required by subdivisions (1) and (2)
841 of this subsection shall annually confirm that it maintains the required
842 penal sum in an amount required by subsection (d) of this section. Not
843 later than September 1, 2011, and every September first thereafter, such
844 principal shall file such information as the commissioner may require
845 under subsection (d) of this section and shall file, not later than
846 September first of the applicable year, or on such other date as the
847 commissioner may require, pursuant to subdivision (d) of this section,
848 any bond rider or endorsement to the surety bond on file with the
849 commissioner to reflect any changes necessary to maintain the surety
850 bond coverage required by this section.

851 (B) Effective October 1, 2011, the principal on a bond required by
852 subdivision (3) of this section shall annually confirm that it maintains
853 the required penal sum in an amount required by subsection (d) of this
854 section. Not later than September 1, 2012, and every September first
855 thereafter, such principal shall file such information as the
856 commissioner may require under subsection (d) of this section and
857 shall file, not later than September first of the applicable year, or on
858 such other date as the commissioner may require pursuant to
859 subdivision (d) of this section, any bond rider or endorsement to the
860 surety bond on file with the commissioner to reflect any changes
861 necessary to maintain the surety bond coverage required by this
862 section.

863 (5) The commissioner may adopt regulations in accordance with
864 chapter 54 with respect to the requirements for such surety bonds.

865 (b) The bond required by subsection (a) of this section shall be (1) in
866 a form approved by the Attorney General, and (2) conditioned upon
867 [such] the mortgage lender, mortgage correspondent lender or
868 mortgage broker licensee and [, effective July 31, 2010,] any mortgage
869 loan originator [who is covered by the surety bond of a mortgage

870 lender, mortgage correspondent lender or mortgage broker,] licensee
871 sponsored by such mortgage lender, mortgage correspondent lender
872 or mortgage broker or, in the case of a mortgage loan originator
873 licensee sponsored after October 1, 2011, by an exempt registrant, upon
874 such mortgage loan originator licensee faithfully performing any and
875 all written agreements or commitments with or for the benefit of
876 borrowers and prospective borrowers, truly and faithfully accounting
877 for all funds received from a borrower or prospective borrower by the
878 licensee in the licensee's capacity as a mortgage lender, mortgage
879 correspondent lender, [or a] mortgage broker or [, effective July 31,
880 2010, a] mortgage loan originator, and conducting such mortgage
881 business consistent with the provisions of sections 36a-485 to 36a-498f,
882 inclusive, as amended by this act, 36a-534a and 36a-534b, as amended
883 by this act. Any borrower or prospective borrower who may be
884 damaged by failure to perform any written agreements or
885 commitments, or by the wrongful conversion of funds paid by a
886 borrower or prospective borrower to a licensee, may proceed on such
887 bond against the principal or surety thereon, or both, to recover
888 damages. Commencing August 1, 2009, any borrower or prospective
889 borrower who may be damaged by a mortgage lender, mortgage
890 correspondent lender, mortgage broker or mortgage loan originator
891 licensee's failure to satisfy a judgment against the licensee arising from
892 the making or brokering of a nonprime home loan, as defined in
893 section 36a-760, as amended by this act, may proceed on such bond
894 against the principal or surety thereon, or both, to recover the amount
895 of the judgment. The commissioner may proceed on such bond against
896 the principal or surety thereon, or both, to collect any civil penalty
897 imposed upon [the] a licensee pursuant to subsection (a) of section 36a-
898 50 and any unpaid costs of examination of [the] a licensee as
899 determined pursuant to section 36a-65, as amended by this act. The
900 proceeds of the bond, even if commingled with other assets of the
901 [licensee] principal, shall be deemed by operation of law to be held in
902 trust for the benefit of such claimants against the [licensee] principal in
903 the event of bankruptcy of the [licensee] principal and shall be immune
904 from attachment by creditors and judgment creditors. The bond shall

905 run concurrently with the period of the license [granted to the
906 applicant,] for the main office and the aggregate liability under the
907 bond shall not exceed the penal sum of the bond. The [licensee]
908 principal shall notify the commissioner of the commencement of an
909 action on the [licensee's] bond. When an action is commenced on a
910 [licensee's] principal's bond, the commissioner may require the filing
911 of a new bond and immediately on recovery on any action on the
912 bond, the [licensee] principal shall file a new bond.

913 (c) The surety company shall have the right to cancel the bond at
914 any time by a written notice to the [licensee] principal stating the date
915 cancellation shall take effect. Such notice shall be sent by certified mail
916 to the [licensee] principal at least thirty days prior to the date of
917 cancellation. A surety bond shall not be cancelled unless the surety
918 company notifies the commissioner in writing not less than thirty days
919 prior to the effective date of cancellation. After receipt of such
920 notification from the surety company, the commissioner shall give
921 written notice to the [licensee] principal of the date such bond
922 cancellation shall take effect and such notice shall be deemed notice to
923 each mortgage loan originator licensee sponsored by such principal.
924 The commissioner shall automatically suspend the [license on such
925 date, unless the licensee prior to such date] licenses of a mortgage
926 lender, mortgage correspondent lender or mortgage broker on such
927 date and inactivate the licenses of the mortgage loan originators
928 sponsored by such lender, correspondent lender or broker. On and
929 after October 1, 2011, in the case of a cancellation of an exempt
930 registrant's bond, the commissioner shall inactivate the licenses of the
931 mortgage loan originators sponsored by such exempt registrant. No
932 automatic suspension or inactivation shall occur if, prior to the date
933 that the bond cancellation shall take effect, (1) the principal submits a
934 letter of reinstatement of the bond from the surety company or a new
935 bond, [or] (2) the mortgage lender, mortgage correspondent lender or
936 mortgage broker licensee has ceased business and has surrendered [the
937 license] all licenses in accordance with subsection (a) of section 36a-
938 490, as amended by this act, or (3) in the case of a mortgage loan
939 originator licensee, the sponsorship with the mortgage lender,

940 mortgage correspondent lender or mortgage broker who was
941 automatically suspended pursuant to this section or, after October 1,
942 2011, with the exempt registrant who failed to provide the bond
943 required by this section, has been terminated and a new sponsor has
944 been requested and approved. After a mortgage lender, mortgage
945 correspondent lender or mortgage broker license has been
946 automatically suspended pursuant to this section, the commissioner
947 shall give [the] such licensee notice of the automatic suspension,
948 pending proceedings for revocation or refusal to renew pursuant to
949 section 36a-494, as amended by this act, and an opportunity for a
950 hearing on such action in accordance with section 36a-51, as amended
951 by this act, and require [the] such licensee to take or refrain from
952 taking such action as in the opinion of the commissioner will effectuate
953 the purposes of this section. Effective October 1, 2011, the
954 commissioner may provide information to an exempt registrant
955 concerning actions taken by the commissioner pursuant to this
956 subsection against any mortgage loan originator licensee that was
957 sponsored and bonded by such exempt registrant.

958 (d) The penal sum of the bond required by subdivisions (1) to (3),
959 inclusive, of subsection (a) of this section shall be determined as
960 follows:

961 (1) An applicant for an initial mortgage lender license or mortgage
962 correspondent lender license shall file a bond in a penal sum of one
963 hundred thousand dollars in connection with its application for the
964 main office.

965 (2) An applicant for an initial mortgage broker license shall file a
966 bond in a penal sum of fifty thousand dollars in connection with its
967 application for the main office.

968 (3) Effective October 1, 2011, an exempt registrant under subsection
969 (c) of section 36a-487, as amended by this act, who is exempt from
970 licensing under subdivision (1) of subsection (a) of section 36a-487, as
971 amended by this act, shall file a bond in a penal sum of one hundred
972 thousand dollars the first time such exempt registrant sponsors a

973 mortgage loan originator.

974 (4) Effective October 1, 2011, an exempt registrant under subsection
975 (c) of section 36a-487, as amended by this act, who is exempt from
976 licensure under subsection (b) of section 36a-487, as amended by this
977 act, shall file a bond in a penal sum of fifty thousand dollars the first
978 time such exempt registrant sponsors a mortgage loan originator.

979 (5) Effective October 1, 2011, an exempt registrant under subsection
980 (c) of section 36a-487, as amended by this act, who is exempt from
981 licensure under subdivision (2) of subsection (a) of section 36a-487, as
982 amended by this act, shall file a bond in a penal sum as set forth in
983 section 36a-671d, as amended by this act.

984 (6) (A) For mortgage lender and mortgage correspondent lender
985 licensees, and, after October 1, 2011, persons sponsoring and bonding
986 at least one mortgage loan originator as an exempt registrant under
987 subsection (c) of section 36a-487, as amended by this act, and who are
988 exempt from licensing under subdivision (1) of subsection (a) of
989 section 36a-487, as amended by this act, if (i) the aggregate dollar
990 amount of all residential mortgage loans originated by such licensee at
991 all licensed locations or by the exempt registrant during the preceding
992 twelve-month period ending July thirty-first of the current year is less
993 than thirty million dollars, the penal sum of the bond shall be one
994 hundred thousand dollars; (ii) the aggregate dollar amount of all
995 residential mortgage loans originated by such licensee at all licensed
996 locations or by the exempt registrant during the preceding twelve-
997 month period ending July thirty-first of the current year is thirty
998 million dollars or more but less than one hundred million dollars, the
999 penal sum of the bond shall be two hundred thousand dollars; (iii) the
1000 aggregate dollar amount of all residential mortgage loans originated
1001 by such licensee at all licensed locations or by the exempt registrant
1002 during the preceding twelve-month period ending July thirty-first of
1003 the current year is one hundred million dollars or more but less than
1004 two hundred fifty million dollars, the penal sum of the bond shall be
1005 three hundred thousand dollars; and (iv) the aggregate dollar amount

1006 of all residential mortgage loans originated by such licensee at all
1007 licensed locations or by the exempt registrant during the preceding
1008 twelve-month period ending July thirty-first of the current year is two
1009 hundred fifty million dollars or more, the penal sum of the bond shall
1010 be five hundred thousand dollars.

1011 (B) For mortgage broker licensees and, after October 1, 2011, persons
1012 who are sponsoring and bonding at least one mortgage loan originator
1013 as an exempt registrant under subsection (c) of section 36a-487, as
1014 amended by this act, and who are exempt from licensing under
1015 subsection (b) of section 36a-487, as amended by this act, if (i) the
1016 aggregate dollar amount of all residential mortgage loans originated
1017 by such licensee at all licensed locations or by the exempt registrant
1018 during the preceding twelve-month period ending July thirty-first of
1019 the current year is less than thirty million dollars, the penal sum of the
1020 bond shall be fifty thousand dollars; (ii) the aggregate dollar amount of
1021 all residential mortgage loans originated by such licensee at all
1022 licensed locations or by the exempt registrant during the preceding
1023 twelve-month period ending July thirty-first of the current year is
1024 thirty million dollars or more but less than fifty million dollars, the
1025 penal sum of the bond shall be one hundred thousand dollars; and (iii)
1026 the aggregate dollar amount of all residential mortgage loans
1027 originated by such licensee at all licensed locations or by the exempt
1028 registrant during the preceding twelve-month period ending July
1029 thirty-first of the current year is fifty million dollars or more, the penal
1030 sum of the bond shall be one hundred fifty thousand dollars.

1031 (7) For purposes of this subsection, the aggregate dollar amount of
1032 all residential mortgage loans originated by such licensee or, after
1033 October 1, 2011, such exempt registrant, includes the aggregate dollar
1034 amount of all closed residential mortgage loans that the licensee or
1035 exempt registrant originated, brokered or made, as applicable.

1036 (8) Financial information necessary to verify the aggregate dollar
1037 amount of residential mortgage loans originated shall be filed with the
1038 commissioner, as the commissioner may require, and shall be reported

1039 on the system at such time and in such form as the system may
1040 require.

1041 (9) The commissioner may require a change in the penal sum of the
1042 bond if the commissioner determines at any time that the aggregate
1043 dollar amount of all residential mortgage loans originated warrants a
1044 change in the penal sum of the bond.

1045 Sec. 22. Subdivision (2) of subsection (a) of section 36a-494 of the
1046 general statutes is repealed and the following is substituted in lieu
1047 thereof (*Effective October 1, 2011*):

1048 (2) The commissioner may suspend, revoke or refuse to renew any
1049 mortgage loan originator license or any loan processor or underwriter
1050 license or take any other action, in accordance with the provisions of
1051 section 36a-51, as amended by this act, for any reason which would be
1052 sufficient grounds for the commissioner to deny an application for
1053 such license under sections 36a-485 to 36a-498f, inclusive, as amended
1054 by this act, 36a-534a and 36a-534b, as amended by this act, or if the
1055 commissioner finds that the licensee has committed any fraud,
1056 misappropriated funds, misrepresented, concealed, suppressed,
1057 intentionally omitted or otherwise intentionally failed to disclose any
1058 of the material particulars of any residential mortgage loan transaction
1059 or has violated any of the provisions of this title or of any regulations
1060 adopted pursuant to such title or any other law or regulation
1061 applicable to the conduct of such licensee's business.

1062 Sec. 23. Subsection (h) of section 36a-498 of the general statutes is
1063 repealed and the following is substituted in lieu thereof (*Effective from*
1064 *passage*):

1065 (h) No mortgage lender or mortgage correspondent lender shall
1066 include in a residential mortgage loan for which an application is
1067 received by such lender on or after October 1, 2009, a provision that
1068 increases the interest rate as a result of a default other than a failure to
1069 comply with a provision to maintain an automatic electronic payment
1070 feature where such maintenance provision has been provided in return

1071 for an interest rate reduction and the increase is no greater than such
1072 reduction.

1073 Sec. 24. Section 36a-498d of the general statutes is repealed and the
1074 following is substituted in lieu thereof (*Effective October 1, 2011*):

1075 The ["unique identifier", as defined in section 36a-485,] unique
1076 identifier of any mortgage loan originator or loan processor or
1077 underwriter licensed under section 36a-489, as amended by this act,
1078 [originating a residential mortgage loan] shall be clearly shown on all
1079 residential mortgage loan application forms, solicitations or
1080 advertisements, including business cards or web sites, and any other
1081 documents as established by rule, regulation or order of the [Banking
1082 Commissioner] commissioner.

1083 Sec. 25. Subdivision (6) of section 36a-498e of the general statutes is
1084 repealed and the following is substituted in lieu thereof (*Effective*
1085 *October 1, 2011*):

1086 (6) Conduct any business as a mortgage lender, mortgage
1087 correspondent lender, mortgage broker, [or] mortgage loan originator
1088 or loan processor or underwriter without holding a valid license as
1089 required under sections 36a-485 to 36a-498f, inclusive, as amended by
1090 this act, 36a-534a and 36a-534b, as amended by this act, or assist or
1091 aide and abet any person in the conduct of business as a mortgage
1092 lender, mortgage correspondent lender, mortgage broker, [or]
1093 mortgage loan originator or loan processor or underwriter without a
1094 valid license as required under said sections;

1095 Sec. 26. Subdivision (1) of subsection (a) of section 36a-534b of the
1096 general statutes is repealed and the following is substituted in lieu
1097 thereof (*Effective October 1, 2011*):

1098 (a) (1) In addition to any other duties imposed upon the [Banking
1099 Commissioner] commissioner by law, the commissioner shall require
1100 mortgage lenders, mortgage correspondent lenders, mortgage brokers,
1101 [and] mortgage loan originators and loan processors or underwriters

1102 to be licensed and registered through the system. In order to carry out
1103 this requirement, the commissioner shall participate in the system and
1104 permit the system to process applications for mortgage lender,
1105 mortgage correspondent lender, mortgage broker, [and] mortgage loan
1106 originator and loan processor or underwriter licenses in this state and
1107 receive and maintain records related to such licenses that are allowed
1108 or required to be maintained by the commissioner. For this purpose,
1109 the commissioner may establish requirements as necessary for
1110 participation in the system, including: (A) Background checks for
1111 criminal history through (i) fingerprint or other databases, (ii) civil or
1112 administrative records, or (iii) credit history or any other information
1113 as deemed necessary by the system; (B) the payment of fees to apply
1114 for or renew licenses through the system; (C) the setting or resetting of
1115 renewal or reporting dates; and (D) the requirements for amending or
1116 surrendering a license or any other such activities as the commissioner
1117 deems necessary for participation in the system. For the purpose of
1118 participating in the system, the commissioner may waive or modify, in
1119 whole or in part, by regulation or order, any requirement of sections
1120 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-534a and
1121 36a-534b, as amended by this act, and to establish new requirements as
1122 reasonably necessary to participate in the system. For the purposes of
1123 implementing an orderly and efficient licensing process, the
1124 commissioner may adopt licensing regulations, in accordance with the
1125 provisions of chapter 54, and interim procedures for licensing and
1126 acceptance of applications. For previously licensed individuals, the
1127 commissioner may establish expedited review and licensing
1128 procedures.

1129 Sec. 27. Subdivision (6) of subsection (a) of section 36a-534b of the
1130 general statutes is repealed and the following is substituted in lieu
1131 thereof (*Effective from passage*):

1132 (6) [The commissioner shall establish a process whereby mortgage]
1133 Mortgage lenders, mortgage correspondent lenders, mortgage brokers,
1134 [and] mortgage loan originators and, effective October 1, 2011,
1135 individuals licensed as loan processors or underwriters may challenge

1136 information entered into the system by the commissioner. Such
1137 challenge shall (A) be made in writing to the commissioner, (B) set
1138 forth the specific information being challenged, and (C) include any
1139 evidence which supports the challenge. Challenges shall be limited to
1140 the factual accuracy of information within the system. If the
1141 commissioner determines that the information entered into the system
1142 is factually inaccurate, the commissioner shall take prompt action to
1143 correct such information. Nothing in this subdivision shall be
1144 construed to permit a challenge under this section to the merits or
1145 factual basis of any administrative action taken by the commissioner
1146 pursuant to title 36a.

1147 Sec. 28. Subdivision (3) of subsection (c) of section 36a-534b of the
1148 general statutes is repealed and the following is substituted in lieu
1149 thereof (*Effective October 1, 2011*):

1150 (3) Any person making any filing or submission of any information
1151 on the system shall do so in accordance with the procedures and
1152 requirements of the system and pay the applicable fees or charges to
1153 the system. Each mortgage lender, mortgage correspondent lender,
1154 mortgage broker, [and] mortgage loan originator and loan processor or
1155 underwriter licensee shall submit to the system reports of condition
1156 that shall be in such form and shall contain such information as the
1157 system may require.

1158 Sec. 29. Section 36a-537 of the general statutes is repealed and the
1159 following is substituted in lieu thereof (*Effective October 1, 2011*):

1160 The application for a license as a sales finance company shall be on a
1161 form prescribed by the commissioner, in writing and under oath,
1162 together with such exhibits and other pertinent information as the
1163 commissioner may require. The application shall include (1) the
1164 history of criminal convictions [for the ten-year period prior to the date
1165 of the application] of the applicant; and the partners, if the applicant is
1166 a partnership; the members, if the applicant is a limited liability
1167 company or association; or the officers, directors and principal
1168 employees if the applicant is a corporation; and (2) sufficient

1169 information pertaining to the history of criminal convictions, in a form
1170 acceptable to the commissioner, on such applicant, partners, directors,
1171 members, officers, and principal employees as the commissioner
1172 deems necessary to make findings under section 36a-541, as amended
1173 by this act. The commissioner, in accordance with section 29-17a, may
1174 conduct a state and national criminal history records check of the
1175 applicant and of each partner, member, officer, director and principal
1176 employee of the applicant. The commissioner may deem an
1177 application for a license as a sales finance company abandoned if the
1178 applicant fails to respond to any request for information required
1179 under sections 36a-535 to 36a-546, inclusive, as amended by this act, or
1180 any regulations adopted pursuant to said sections 36a-535 to 36a-546,
1181 inclusive. The commissioner shall notify the applicant, in writing, that
1182 if such information is not submitted not later than sixty days after such
1183 request, the application shall be deemed abandoned. An application
1184 filing fee paid prior to the date an application is deemed abandoned
1185 pursuant to this section shall not be refunded. Abandonment of an
1186 application pursuant to this section shall not preclude the applicant
1187 from submitting a new application for a license under sections 36a-535
1188 to 36a-546, inclusive, as amended by this act.

1189 Sec. 30. Section 36a-541 of the general statutes is repealed and the
1190 following is substituted in lieu thereof (*Effective October 1, 2011*):

1191 If the commissioner finds, upon the filing of an application for a
1192 license as a sales finance company, that the financial responsibility,
1193 character, reputation, integrity and general fitness of the applicant and
1194 of the partners thereof if the applicant is a partnership, of the members
1195 if the applicant is a limited liability company or association, and of the
1196 officers, directors and principal employees if the applicant is a
1197 corporation, are such as to warrant belief that the business will be
1198 operated soundly and efficiently, in the public interest and consistent
1199 with the purposes of sections 36a-535 to 36a-546, inclusive, as amended
1200 by this act, the commissioner may thereupon issue the applicant the
1201 license. If the commissioner fails to make such findings, or if the
1202 commissioner finds that the applicant has made any material

1203 misstatement in the application, the commissioner shall not issue a
1204 license, and shall notify the applicant of the denial and the reasons for
1205 such denial. The commissioner may deny an application if the
1206 commissioner finds that the applicant or any partner, member, officer,
1207 director or principal employee of the applicant has been convicted [,
1208 during the ten-year period prior to the date of application,] of any
1209 misdemeanor involving any aspect of the sales finance business, or any
1210 felony. Any denial of an application by the commissioner shall, when
1211 applicable, be subject to the provisions of section 46a-80. Withdrawal
1212 of an application for a license shall become effective upon receipt by
1213 the commissioner of a notice of intent to withdraw such application.
1214 The commissioner may deny a license up to the date one year after the
1215 date the withdrawal became effective.

1216 Sec. 31. Section 36a-556 of the general statutes is repealed and the
1217 following is substituted in lieu thereof (*Effective October 1, 2011*):

1218 Upon the filing of the required application and license fee, the
1219 commissioner shall investigate the facts and, if the commissioner finds
1220 that (1) the experience, character and general fitness of the applicant,
1221 and of the members thereof if the applicant is a partnership, limited
1222 liability company or association, and of the officers and directors
1223 thereof if the applicant is a corporation, are satisfactory, (2) a license to
1224 such applicant will be for the convenience and advantage of the
1225 community in which the applicant's business is to be conducted, and
1226 (3) the applicant has the capital investment required by this section, the
1227 commissioner shall issue a license to the applicant to make loans in
1228 accordance with sections 36a-555 to 36a-573, inclusive, as amended by
1229 this act. If the commissioner fails to make such findings or finds that
1230 the applicant made a material misstatement in the application, the
1231 commissioner shall not issue a license and shall notify the applicant of
1232 the denial and the reasons for such denial. The commissioner may
1233 deny an application if the commissioner finds that the applicant or any
1234 member, officer, or director of the applicant has been convicted [,
1235 during the ten-year period prior to the date of application,] of any
1236 misdemeanor involving any aspect of the small loan lender business,

1237 or any felony. Any denial of an application by the commissioner shall,
1238 when applicable, be subject to the provisions of section 46a-80.
1239 Withdrawal of an application for a license shall become effective upon
1240 receipt by the commissioner of a notice of intent to withdraw such
1241 application. The commissioner may deny a license up to the date one
1242 year after the date the withdrawal became effective. The capital
1243 investment shall be not less than twenty-five thousand dollars for each
1244 licensed location in a city or town with a population of ten thousand or
1245 more inhabitants and ten thousand dollars for each licensed location in
1246 a city or town with a smaller population. Population shall be
1247 determined according to the last United States census at the time a
1248 license is granted.

1249 Sec. 32. Subsection (a) of section 36a-557 of the general statutes is
1250 repealed and the following is substituted in lieu thereof (*Effective*
1251 *October 1, 2011*):

1252 (a) An application for such license shall be in writing, under oath
1253 and in the form prescribed by the commissioner, and shall include (1)
1254 the history of criminal convictions [for the ten-year period prior to the
1255 date of the application] of the applicant; the members, if the applicant
1256 is a partnership, limited liability company or association; or the officers
1257 and directors, if the applicant is a corporation, and (2) sufficient
1258 information pertaining to the history of criminal convictions, in a form
1259 acceptable to the commissioner, on such applicant, members, officers
1260 and directors as the commissioner deems necessary to make the
1261 findings under section 36a-556, as amended by this act. The
1262 commissioner, in accordance with section 29-17a, may conduct a state
1263 and national criminal history records check of the applicant and of
1264 each member, officer and director of the applicant. The commissioner
1265 may deem an application for a license as a small loan lender
1266 abandoned if the applicant fails to respond to any request for
1267 information required under sections 36a-555 to 36a-573, inclusive, as
1268 amended by this act, or any regulations adopted pursuant to said
1269 sections 36a-555 to 36a-573, inclusive. The commissioner shall notify
1270 the applicant, in writing, that if such information is not submitted not

1271 later than sixty days after such request, the application shall be
1272 deemed abandoned. An application filing fee paid prior to the date an
1273 application is deemed abandoned pursuant to this subsection shall not
1274 be refunded. Abandonment of an application pursuant to this
1275 subsection shall not preclude the applicant from submitting a new
1276 application for a license under sections 36a-555 to 36a-573, inclusive, as
1277 amended by this act.

1278 Sec. 33. Subsection (c) of section 36a-573 of the general statutes is
1279 repealed and the following is substituted in lieu thereof (*Effective from*
1280 *passage*):

1281 (c) Whenever it appears to the [Banking Commissioner]
1282 commissioner that any person has violated the provisions of
1283 subsection (a) of this section or offered a loan that violates the
1284 provisions of subsection (a), the commissioner may investigate, take
1285 administrative action or assess civil penalties and restitution in
1286 accordance with the provisions of sections 36a-50 and 36a-52.

1287 Sec. 34. Section 36a-581 of the general statutes is repealed and the
1288 following is substituted in lieu thereof (*Effective October 1, 2011*):

1289 (a) Except as provided for in section 36a-580, no person shall engage
1290 in the business of cashing checks, drafts or money orders for
1291 consideration without obtaining a license to operate a general facility
1292 or a license to operate a limited facility for each location where such
1293 business is to be conducted.

1294 (b) Each licensee of a limited facility shall continuously maintain at
1295 least one operating general facility. A licensee of a limited facility shall
1296 not pay any compensation or consideration to any employer.

1297 (c) An application for a check cashing license or renewal of such
1298 license shall be in writing, under oath and on a form provided by the
1299 commissioner. The application shall set forth: (1) The name and
1300 address of the applicant; (2) if the applicant is a firm or partnership,
1301 the names and addresses of each member of the firm or partnership;

1302 (3) if the applicant is a corporation, the names and addresses of each
1303 officer, director, authorized agent and each shareholder owning ten
1304 per cent or more of the outstanding stock of such corporation; (4) if the
1305 applicant is a limited liability company, the names and addresses of
1306 each member and authorized agent of such limited liability company;
1307 (5) (A) the history of criminal convictions [for the ten-year period prior
1308 to the date of the application] of the applicant; the members, if the
1309 applicant is a firm or partnership; the officers, directors, authorized
1310 agent and each shareholder owning ten per cent or more of the
1311 outstanding stock of the applicant, if the applicant is a corporation,
1312 and (B) sufficient information pertaining to the history of criminal
1313 convictions in a form acceptable to the commissioner on such
1314 applicant, members, officers, directors, authorized agent and
1315 shareholders as the commissioner deems necessary to make the
1316 findings under subsection (e) of this section; (6) each location where
1317 the check cashing business is to be conducted and the type of facility
1318 that will be operated at that location; (7) the business plan, which shall
1319 include the proposed days and hours of operation; (8) the amount of
1320 liquid assets available for each location which shall not be less than the
1321 amount specified in subdivision (7) of subsection (e) of this section; (9)
1322 for each limited facility, a copy of the executed contract evidencing the
1323 proposed arrangement between the applicant and the employer; and
1324 (10) any other information the commissioner may require. The
1325 commissioner, in accordance with section 29-17a, may conduct a state
1326 and national criminal history records check of the applicant and of
1327 each member, officer, director, authorized agent and shareholder
1328 owning ten per cent or more of the outstanding stock of the applicant.

1329 (d) A licensee shall not change the name or the location specified on
1330 its license unless, prior to such change in name or location, the licensee
1331 files an application with the commissioner accompanied by the
1332 applicable name change fee or location transfer fee specified in section
1333 36a-582 and receives the approval of the commissioner. A licensee of a
1334 limited facility shall not change its approved days and hours of
1335 operation unless, prior to any such change, the licensee files an
1336 application with and receives the approval of the commissioner. No

1337 licensee shall use any name other than the name specified on the
1338 license issued by the commissioner.

1339 (e) Upon the filing of the required application and the applicable
1340 license and location fees, the commissioner shall investigate the facts
1341 and may issue a license if the commissioner finds that (1) the applicant
1342 is in all respects properly qualified and of good character, (2) if the
1343 applicant is a firm or partnership, each member of the firm or
1344 partnership is in all respects properly qualified and of good character,
1345 (3) if the applicant is a corporation, each officer, director, authorized
1346 agent and each shareholder owning ten per cent or more of the
1347 outstanding stock of such corporation is in all respects properly
1348 qualified and of good character, (4) if the applicant is a limited liability
1349 company, each member and authorized agent is in all respects
1350 properly qualified and of good character, (5) granting such license
1351 would not be against the public interest, (6) the applicant has a feasible
1352 plan for conducting business, and (7) the applicant has available and
1353 shall continuously maintain liquid assets of at least ten thousand
1354 dollars for each general facility location and at least two thousand five
1355 hundred dollars for each limited facility location specified in the
1356 application. The commissioner may deny an application if the
1357 commissioner finds that the applicant or any member, officer, director
1358 or authorized agent or shareholder owning ten per cent or more of the
1359 outstanding stock of the applicant has been convicted [, during the ten-
1360 year period prior to the date of application,] of any misdemeanor
1361 involving any aspect of the check cashing services business, or any
1362 felony. Any denial of an application by the commissioner shall, when
1363 applicable, be subject to the provisions of section 46a-80.

1364 (f) An applicant or licensee shall promptly notify the commissioner,
1365 in writing, of any change in the information provided in its initial or
1366 renewal application for licensure or most recent renewal of such
1367 license.

1368 (g) The commissioner may deem an application for a license for a
1369 general facility or limited facility abandoned if the applicant fails to

1370 respond to any request for information required under sections 36a-
1371 580 to 36a-589, inclusive, as amended by this act, or any regulations
1372 adopted pursuant to said sections 36a-580 to 36a-589, inclusive. The
1373 commissioner shall notify the applicant, in writing, that if such
1374 information is not submitted not later than sixty days after such
1375 request, the application shall be deemed abandoned. An application
1376 filing fee paid prior to the date an application is deemed abandoned
1377 pursuant to this subsection shall not be refunded. Abandonment of an
1378 application pursuant to this subsection shall not preclude the applicant
1379 from submitting a new application for a license under sections 36a-560
1380 to 36a-589, inclusive, as amended by this act.

1381 Sec. 35. Section 36a-598 of the general statutes is repealed and the
1382 following is substituted in lieu thereof (*Effective October 1, 2011*):

1383 (a) Each application for an original or renewal license required
1384 under sections 36a-595 to 36a-610, inclusive, as amended by this act,
1385 shall be made in writing and under oath to the commissioner in such
1386 form as the commissioner may prescribe. The application shall include:

1387 (1) The exact name of the applicant and, if incorporated, the date of
1388 incorporation and the state where incorporated;

1389 (2) The complete address of the principal office from which the
1390 business is to be conducted and of the office where the books and
1391 records of the applicant are to be maintained;

1392 (3) The complete name and address of each of the applicant's
1393 branches, subsidiaries, affiliates and agents, if any, engaging in this
1394 state in the business of selling or issuing Connecticut payment
1395 instruments, or engaging in the business of money transmission;

1396 (4) The name, title, address and telephone number of the person to
1397 whom notice of the commissioner's approval or disapproval of the
1398 application shall be sent and to whom any inquiries by the
1399 commissioner concerning the application shall be directed;

1400 (5) The name and residence address of the individual, if the

1401 applicant is an individual; the partners, if the applicant is a
1402 partnership; the directors, trustees, principal officers, and any
1403 shareholder owning ten per cent or more of each class of its securities,
1404 if the applicant is a corporation or association; or the members, if the
1405 applicant is a limited liability company;

1406 (6) The most recently audited unconsolidated financial statement of
1407 the applicant, including its balance sheet and receipts and
1408 disbursements for the preceding year, prepared by an independent
1409 certified public accountant acceptable to the commissioner;

1410 (7) A list of the applicant's permissible investments, the book and
1411 market values of such investments, and the dollar amount of the
1412 applicant's aggregate outstanding payment instruments (A) as of the
1413 date of the financial statement filed in accordance with subdivision (6)
1414 of this subsection; and (B) as of a date no earlier than thirty business
1415 days prior to the filing of the application;

1416 (8) The history of material litigation for the five-year period prior to
1417 the date of the application of the individual, if the applicant is an
1418 individual; the partners, if the applicant is a partnership; the directors,
1419 trustees, principal officers and any shareholder owning ten per cent or
1420 more of each class of its securities, if the applicant is a corporation or
1421 association; or the members, if the applicant is a limited liability
1422 company, and sufficient information pertaining to the history of
1423 material litigation, in a form acceptable to the commissioner, on such
1424 individual or the partners, directors, trustees, principal officers,
1425 members and any shareholder owning ten per cent or more of each
1426 class of the applicant's securities;

1427 (9) (A) The history of criminal convictions [for the ten-year period
1428 prior to the date of the application] of the individual, if the applicant is
1429 an individual; the partners, if the applicant is a partnership; the
1430 directors, trustees, principal officers and any shareholder owning ten
1431 per cent or more of each class of its securities if the applicant is a
1432 corporation or association; or the members, if the applicant is a limited
1433 liability company, and (B) sufficient information pertaining to the

1434 history of criminal convictions, in a form acceptable to the
1435 commissioner, on such individual or the partners, directors, trustees,
1436 principal officers, members and any shareholder owning ten per cent
1437 or more of each class of the applicant's securities;

1438 (10) (A) The surety bond required by subsection (a) of section 36a-
1439 602, if applicable;

1440 (B) A list of the investments maintained in accordance with
1441 subsection (c) of section 36a-602, if applicable, and the book and
1442 market values of any such investments (i) as of the date of the financial
1443 statement filed in accordance with subdivision (6) of this subsection;
1444 and (ii) as of a date no earlier than thirty business days prior to the
1445 filing of the application;

1446 (11) A statement of whether the applicant will engage in the
1447 business of issuing money orders, travelers checks or electronic
1448 payment instruments or engage in the business of money transmission
1449 in this state; and

1450 (12) Any other information the commissioner may require.

1451 (b) The commissioner, in accordance with section 29-17a, may
1452 conduct a state and national criminal history records check of the
1453 individual applicant and of each partner, director, trustee, principal
1454 officer, member and shareholder owning ten per cent or more of each
1455 class of the securities of the applicant. The commissioner may deem an
1456 application for a license to engage in the business of issuing
1457 Connecticut payment instruments or engage in the business of money
1458 transmission abandoned if the applicant fails to respond to any request
1459 for information required under sections 36a-595 to 36a-610, inclusive,
1460 as amended by this act, or any regulations adopted pursuant to said
1461 sections. The commissioner shall notify the applicant, in writing, that if
1462 the applicant fails to submit such information not later than sixty days
1463 after such request, the application shall be deemed abandoned. An
1464 application filing fee paid prior to the date an application is deemed
1465 abandoned pursuant to this subsection shall not be refunded.

1466 Abandonment of an application pursuant to this subsection shall not
1467 preclude the applicant from submitting a new application for a license
1468 under sections 36a-595 to 36a-610, inclusive, as amended by this act.

1469 [(b)] (c) An applicant or licensee shall promptly notify the
1470 commissioner, in writing, of any change in the information provided
1471 in the application for license or most recent renewal of such license.

1472 [(c)] (d) A licensee shall not change the name specified on its license
1473 unless, prior to such change in name, the licensee files an application
1474 with the commissioner accompanied by the name change fee specified
1475 in subsection (a) of section 36a-599 and receives the approval of the
1476 commissioner.

1477 [(d)] (e) A licensee shall provide a written notice to the
1478 commissioner no later than one business day after the licensee has
1479 reason to know of the occurrence of any of the following events:

1480 (1) The filing of a petition by or against the licensee under the
1481 United States Bankruptcy Code for bankruptcy or reorganization;

1482 (2) The filing of a petition by or against the licensee for receivership,
1483 the commencement of any other judicial or administrative proceeding
1484 for its dissolution or reorganization, or the making of a general
1485 assignment for the benefit of its creditors;

1486 (3) The commencement of a proceeding to revoke or suspend its
1487 license to engage in money transmission in another state or a foreign
1488 country, or other formal or informal regulatory action by any
1489 governmental agency against the licensee and the reasons therefor;

1490 (4) The commencement of any action by the Attorney General or the
1491 attorney general of any other state and the reasons therefor;

1492 (5) The cancellation or other impairment of the licensee's bond or
1493 other security, including notice of claims filed against the licensee's
1494 bond or other security;

1495 (6) A conviction of the licensee or of a partner, director, trustee,
1496 principal officer, member or shareholder owning ten per cent or more
1497 of each class of the licensee's securities for a misdemeanor involving
1498 the money transmission business or the business of issuing
1499 Connecticut payment instruments, or a felony; or

1500 (7) A conviction of its agent for a felony.

1501 Sec. 36. Subsection (c) of section 36a-600 of the general statutes is
1502 repealed and the following is substituted in lieu thereof (*Effective*
1503 *October 1, 2011*):

1504 (c) The commissioner may deny an application if the commissioner
1505 finds that the applicant or any of its partners, directors, trustees,
1506 principal officers or shareholders owning ten per cent or more of the
1507 shares of the applicant or members have been convicted [, during the
1508 ten-year period prior to the date of application,] of any misdemeanor
1509 involving any aspect of the money transmission business or the
1510 business of issuing [Connecticut] payment instruments, or any felony.
1511 Any denial of an application by the commissioner shall, when
1512 applicable, be subject to the provisions of section 46a-80.

1513 Sec. 37. Section 36a-663 of the general statutes is repealed and the
1514 following is substituted in lieu thereof (*Effective October 1, 2011*):

1515 The provisions of sections 36a-655 to 36a-665, inclusive, as amended
1516 by this act, shall not apply to the following: (1) Any attorney admitted
1517 to the practice of law in this state [, when engaged in such practice]
1518 who engages in debt adjustment as an ancillary matter to such
1519 attorney's representation of a client; (2) any bank, fiduciary or
1520 financing or lending institution authorized to transact business in this
1521 state or any other state, which performs debt adjustment in the regular
1522 course of its principal business; (3) any title insurance or abstract
1523 company authorized to transact business in this state or any other
1524 state, while doing an escrow business; and (4) any person acting
1525 pursuant to any law of this state or of the United States or acting under
1526 the order of a court.

1527 Sec. 38. Section 36a-656 of the general statutes is repealed and the
1528 following is substituted in lieu thereof (*Effective October 1, 2011*):

1529 (a) No person shall engage in the business of debt adjustment in this
1530 state without a debt adjuster license. Any person desiring to obtain
1531 such a license shall file with the commissioner an application under
1532 oath, setting forth such information as the commissioner may require.
1533 Each applicant for a license and each licensee shall notify the
1534 commissioner of any change in the applicant's business from that
1535 stated in the application for the license.

1536 (b) An application for a debt adjuster license or renewal of such
1537 license shall be in writing on a form provided by the commissioner
1538 and shall include (1) the history of criminal convictions [for the ten-
1539 year period prior to the date of the application] of the applicant; the
1540 partners, if the applicant is a partnership; the members, if the applicant
1541 is a limited liability company or association; or the officers, directors
1542 and principal employees if the applicant is a corporation, and (2)
1543 sufficient information pertaining to the history of criminal convictions,
1544 in a form acceptable to the commissioner, on such applicant, partners,
1545 [directors,] members, officers, directors and principal employees as the
1546 commissioner deems necessary to make the findings under subsection
1547 (c) of this section. The commissioner, in accordance with section 29-
1548 17a, may conduct a state and national criminal history records check of
1549 the applicant and of each partner, member, officer, director and
1550 principal employees of the applicant.

1551 (c) If the commissioner finds, upon the filing of an application for a
1552 debt adjuster license, that: (1) The financial responsibility, character,
1553 reputation, integrity and general fitness of the applicant and of the
1554 partners thereof if the applicant is a partnership, of the members if the
1555 applicant is a limited liability company or association, and of the
1556 officers, directors and principal employees if the applicant is a
1557 corporation, are such as to warrant belief that the business will be
1558 operated soundly and efficiently, in the public interest and consistent
1559 with the purposes of sections 36a-655 to 36a-665, inclusive, as amended

1560 by this act; and (2) the applicant is solvent and no proceeding in
1561 bankruptcy, receivership or assignment for the benefit of creditors has
1562 been commenced against the applicant, the commissioner may
1563 thereupon issue the applicant a debt adjuster license. If the
1564 commissioner fails to make such findings, the commissioner shall not
1565 issue a license and shall notify the applicant of the reasons for such
1566 denial. The commissioner may deny an application if the
1567 commissioner finds that the applicant or any partner, member, officer,
1568 director or principal employee of the applicant has been convicted [,
1569 during the ten-year period prior to the date of application,] of any
1570 misdemeanor involving any aspect of the debt adjuster business, or
1571 any felony. Any denial of an application by the commissioner shall,
1572 when applicable, be subject to the provisions of section 46a-80.
1573 Withdrawal of an application for a license shall become effective upon
1574 receipt by the commissioner of a notice of intent to withdraw such
1575 application. The commissioner may deny a license up to the date one
1576 year after the effective date of withdrawal.

1577 (d) Each applicant for an original debt adjuster license that is a bona
1578 fide nonprofit organization shall, at the time of making such
1579 application, pay to the commissioner an application fee of two
1580 hundred fifty dollars. Each applicant for an original or a renewal of a
1581 debt adjuster license that is not a bona fide nonprofit organization
1582 shall, at the time of making such application, pay to the commissioner
1583 an application fee of one thousand six hundred dollars or, in the case
1584 of an application that is filed not earlier than the date one year before
1585 the date of expiration of such license, a license fee of eight hundred
1586 dollars. Each such license shall expire at the close of business on
1587 September thirtieth of the odd-numbered year following its issuance
1588 unless such license is renewed. Each licensee shall, on or before
1589 September first of the year in which the license expires, file such
1590 renewal application as the commissioner may require.

1591 (e) If the commissioner determines that a check filed with the
1592 commissioner to pay an application fee has been dishonored, the
1593 commissioner shall automatically suspend the license or a renewal

1594 license that has been issued but is not yet effective. The commissioner
1595 shall give the licensee notice of the automatic suspension pending
1596 proceedings for revocation or refusal to renew and an opportunity for
1597 a hearing on such actions in accordance with section 36a-51, as
1598 amended by this act.

1599 (f) No abatement of the license fee shall be made if the license is
1600 surrendered, revoked or suspended prior to the expiration of the
1601 period for which it was issued. The fee required by subsection (d) of
1602 this section shall be nonrefundable.

1603 (g) The commissioner may deem an application for a license to
1604 engage in the business of debt adjustment abandoned if the applicant
1605 fails to respond to any request for information required under sections
1606 36a-655 to 36a-665, inclusive, as amended by this act, or any
1607 regulations adopted pursuant to said sections 36a-655 to 36a-665,
1608 inclusive. The commissioner shall notify the applicant, in writing, that
1609 if the applicant fails to submit such information not later than sixty
1610 days after the date on which such request for information was made,
1611 the application shall be deemed abandoned. In the event an
1612 application is deemed abandoned, any application filing fee paid prior
1613 to the date on which the application was filed is deemed abandoned
1614 and shall not be refunded. Abandonment of an application pursuant to
1615 this subsection shall not preclude the applicant from submitting a new
1616 application for a license under sections 36a-655 to 36a-665, inclusive, as
1617 amended by this act.

1618 Sec. 39. Subsection (b) of section 36a-664 of the general statutes is
1619 repealed and the following is substituted in lieu thereof (*Effective*
1620 *July 1, 2011*):

1621 (b) The surety shall have the right to cancel any bond filed under
1622 subsection (a) of this section at any time by a written notice to the
1623 licensee, stating the date cancellation shall take effect. Such notice shall
1624 be sent by certified mail to the licensee at least thirty days prior to the
1625 date of cancellation. No such bond shall be cancelled unless the surety
1626 notifies the commissioner in writing not less than thirty days prior to

1627 the effective date of cancellation. After receipt of such notification from
1628 the surety, [or insurance company,] the commissioner shall give
1629 written notice to the licensee of the date such bond [or insurance
1630 policy] cancellation shall take effect. The commissioner shall
1631 automatically suspend the license on such date, unless prior to such
1632 date the licensee submits a letter of reinstatement of the bond [or
1633 insurance policy] from the surety [or insurance company] or a new
1634 bond [or insurance policy] or the licensee has surrendered the license.
1635 After a license has been automatically suspended, the commissioner
1636 shall give the licensee notice of the automatic suspension pending
1637 proceedings for revocation or refusal to renew and an opportunity for
1638 a hearing on such actions in accordance with section 36a-51, as
1639 amended by this act, and require the licensee to take or refrain from
1640 taking such action as in the opinion of the commissioner will effectuate
1641 the purposes of this section.

1642 Sec. 40. Subsections (b) to (d), inclusive, of section 36a-671 of the
1643 general statutes are repealed and the following is substituted in lieu
1644 thereof (*Effective October 1, 2011*):

1645 (b) No person shall engage or offer to engage in debt negotiation in
1646 this state without a license issued under this section for each location
1647 where debt negotiation will be conducted. Any person desiring to
1648 obtain such a license shall file with the commissioner an application
1649 under oath, setting forth such information as the commissioner may
1650 require. Each applicant for a license and each licensee shall notify the
1651 commissioner of any change in the applicant's business from that
1652 stated in the application for the license. A person is engaging in debt
1653 negotiation in this state if such person: (1) Has a place of business
1654 located within this state; (2) has a place of business located outside of
1655 this state and the debtor is a resident of this state who negotiates or
1656 agrees to the terms of the services [contract] in person, by mail, by
1657 telephone or via the Internet; [while physically present in this state;] or
1658 (3) has its place of business located outside of this state and the
1659 [contract concerns] services concern a debt that is secured by property
1660 located within this state.

1661 (c) An application for an original or renewal debt negotiation license
1662 shall be in writing on a form provided by the commissioner and shall
1663 include (1) the history of criminal convictions [for the ten-year period
1664 prior to the date of the application] of the (A) applicant, (B) partners, if
1665 the applicant is a partnership, (C) members, if the applicant is a limited
1666 liability company or association, or (D) officers, directors and principal
1667 employees, if the applicant is a corporation; and (2) sufficient
1668 information pertaining to the history of criminal convictions, in a form
1669 acceptable to the commissioner, on such applicant, partners, members,
1670 officers, directors and principal employees as the commissioner deems
1671 necessary to make the findings under subsection (d) of this section.
1672 The commissioner, in accordance with section 29-17a, may conduct a
1673 state and national criminal history records check of the applicant and
1674 of each partner, member, officer, director and principal employee of
1675 the applicant. The commissioner may deem an application for a debt
1676 negotiation license abandoned if the applicant fails to respond to any
1677 request for information required under sections 36a-671 to 36a-671d,
1678 inclusive, as amended by this act, or any regulations adopted pursuant
1679 to said sections 36a-671 to 36a-671d, inclusive. The commissioner shall
1680 notify the applicant, in writing, that if the applicant fails to submit
1681 such information not later than sixty days after the date on which such
1682 request for information was made, the application shall be deemed
1683 abandoned. An application filing fee paid prior to the date an
1684 application is deemed abandoned pursuant to this subsection shall not
1685 be refunded. Abandonment of an application pursuant to this
1686 subsection shall not preclude the applicant from submitting a new
1687 application for a license under sections 36a-671 to 36a-671d, inclusive,
1688 as amended by this act.

1689 (d) If the commissioner finds, upon the filing of an application for a
1690 debt negotiation license, that: (1) The financial responsibility, character,
1691 reputation, integrity and general fitness of the (A) applicant, (B)
1692 partners thereof, if the applicant is a partnership, (C) members, if the
1693 applicant is a limited liability company or association, and (D) officers,
1694 directors and principal employees, if the applicant is a corporation, are
1695 such as to warrant belief that the business will be operated soundly

1696 and efficiently, in the public interest and consistent with the purposes
1697 of sections 36a-671 to 36a-671d, inclusive, as amended by this act; and
1698 (2) the applicant is solvent and no proceeding in bankruptcy,
1699 receivership or assignment for the benefit of creditors has been
1700 commenced against the applicant, the commissioner may thereupon
1701 issue the applicant a debt negotiation license. Such debt negotiation
1702 license shall not be transferable. Any change of location of a licensee
1703 shall require prior written notice to the commissioner. No licensee
1704 shall use any name unless such name has been approved by the
1705 commissioner. If the commissioner fails to make such findings, the
1706 commissioner shall not issue a license and shall notify the applicant of
1707 the reasons for such denial. The commissioner may deny an
1708 application if the commissioner finds that the applicant or any partner,
1709 member, officer, director or principal employee of the applicant has
1710 been convicted [, during the ten-year period prior to the date of
1711 application,] of any misdemeanor involving any aspect of the debt
1712 negotiation business or any felony. Any denial of an application by the
1713 commissioner shall, when applicable, be subject to the provisions of
1714 section 46a-80. Withdrawal of an application for a license shall become
1715 effective upon receipt by the commissioner of a notice of intent to
1716 withdraw such application. The commissioner may deny a license up
1717 to the date one year after the effective date of withdrawal.

1718 Sec. 41. (NEW) (*Effective October 1, 2011*) (a) No person licensed to
1719 engage or offer to engage in debt negotiation or exempt from such
1720 licensure shall permit any individual to engage or offer to engage in
1721 debt negotiation of a residential mortgage loan on behalf of a
1722 mortgagor for compensation or gain or with the expectation of
1723 compensation or gain unless such individual is licensed as a mortgage
1724 loan originator under section 36a-489 of the general statutes, as
1725 amended by this act, or exempt from such licensure under subdivision
1726 (2) of subsection (b) of section 36a-486 of the general statutes, as
1727 amended by this act.

1728 (b) No individual shall engage or offer to engage in debt negotiation
1729 of a residential mortgage loan on behalf of a mortgagor for

1730 compensation or gain or with the expectation of compensation or gain
1731 without first obtaining and maintaining annually a license as a
1732 mortgage loan originator under section 36a-489, as amended by this
1733 act, unless such individual is exempt from such licensure under
1734 subdivision (2) of subsection (b) of section 36a-486 of the general
1735 statutes, as amended by this act.

1736 (c) Any individual required to obtain and annually maintain a
1737 license as a mortgage loan originator under subsection (b) of this
1738 section shall comply with all requirements imposed on a mortgage
1739 loan originator licensee under chapter 668 of the general statutes.

1740 Sec. 42. Section 36a-671a of the general statutes is repealed and the
1741 following is substituted in lieu thereof (*Effective from passage*):

1742 (a) The commissioner may suspend, revoke or refuse to renew any
1743 license or take any other action, in accordance with the provisions of
1744 section 36a-51, as amended by this act, for any reason that would be
1745 sufficient grounds for the commissioner to deny application for a
1746 license under sections 36a-671 to 36a-671d, inclusive, or section 41 of
1747 this act or if the commissioner finds that the licensee or any proprietor,
1748 director, officer, member, partner, shareholder, trustee, employee or
1749 agent of such licensee has done any of the following: (1) Made any
1750 material misstatement in the application; (2) committed any fraud or
1751 misappropriated funds; (3) violated any of the provisions of sections
1752 36a-671 to 36a-671d, inclusive, as amended by this act, or any other law
1753 or regulation applicable to the conduct of its business; or (4) failed to
1754 perform any agreement with a debtor.

1755 (b) Whenever it appears to the commissioner that any person has
1756 violated, is violating or is about to violate the provisions of sections
1757 36a-671 to 36a-671d, inclusive, as amended by this act, or section 41 of
1758 this act or any licensee or any proprietor, director, officer, member,
1759 partner, shareholder, trustee, employee or agent of such licensee has
1760 committed any fraud, misappropriated funds or failed to perform any
1761 agreement with a debtor, the commissioner may take action against
1762 such person or licensee in accordance with sections 36a-50 and 36a-52.

1763 For purposes of sections 36a-671 to 36a-671d, inclusive, as amended by
1764 this act, and section 41 of this act, each engagement and each offer to
1765 engage in debt negotiation shall constitute a separate violation.

1766 (c) Upon complaint, the [Banking Commissioner] commissioner
1767 may review any fees or charges assessed by a person engaging or
1768 offering to engage in debt negotiation services and order the reduction
1769 of such fees or charges or repayment of such amount of the fees or
1770 charges that the commissioner deems excessive, taking into
1771 consideration the fees that other persons performing similar debt
1772 negotiation services charge for such services and the benefit to the
1773 consumer of such services. In conducting an investigation pursuant to
1774 this subsection, the commissioner shall have the same authority as
1775 specified in section 36a-17.

1776 Sec. 43. Section 36a-671c of the general statutes is repealed and the
1777 following is substituted in lieu thereof (*Effective October 1, 2011*):

1778 The provisions of sections 36a-671 to 36a-671d, inclusive, as
1779 amended by this act, shall not apply to the following: (1) Any attorney
1780 admitted to the practice of law in this state [, when engaged in such
1781 practice] who engages or offers to engage in debt negotiation as an
1782 ancillary matter to such attorney's representation of a client; (2) any
1783 bank, out-of-state bank, Connecticut credit union, federal credit union
1784 or out-of-state credit union, provided subsidiaries of such institutions
1785 other than operating subsidiaries of federal banks and federally-
1786 chartered out-of-state banks are not exempt from licensure; (3) any
1787 person licensed as a debt adjuster pursuant to sections 36a-655 to 36a-
1788 665, inclusive, as amended by this act, while performing debt adjuster
1789 services; (4) any person acting under the order of a court; or (5) any
1790 bona fide nonprofit organization organized under Section 501(c)(3) of
1791 the Internal Revenue Code of 1986, or any subsequent corresponding
1792 internal revenue code of the United States, as amended from time to
1793 time.

1794 Sec. 44. Section 36a-671d of the general statutes is repealed and the
1795 following is substituted in lieu thereof (*Effective October 1, 2011*):

1796 (a) (1) No debt negotiation license, and no renewal thereof, shall be
1797 granted unless the applicant has filed [a surety bond with the
1798 commissioner in an aggregate amount of forty thousand dollars for all
1799 licensed locations. Such surety] the surety bond required by this
1800 section, which bond shall be written by a surety authorized to write
1801 such bonds in this state.

1802 (2) No application for a debt negotiation license for a main office,
1803 and no renewal of such a license, shall be granted unless the applicant
1804 has filed a single surety bond with the commissioner in an aggregate
1805 amount of fifty thousand dollars, or such other amount required by
1806 subdivision (4) of this subsection. No application for a debt negotiation
1807 license branch office, and no renewal of such a license, shall be granted
1808 unless the applicant has identified such branch office as a bonded
1809 location by addendum to the main office surety bond required by this
1810 section.

1811 (3) Each debt negotiation licensee shall file a single surety bond that
1812 complies with the requirements of this section in connection with the
1813 main office license with the commissioner in an aggregate amount of
1814 fifty thousand dollars or such other amount required in subdivision (4)
1815 of this subsection, which bond shall identify any licensed branch office
1816 as a bonded location on such bond by addendum.

1817 (4) In the case of a debt negotiation licensee engaging or offering to
1818 engage in the business of negotiating residential mortgage loans on
1819 behalf of mortgagors, such debt negotiation licensee shall file a bond in
1820 the penal sum amount set forth in subsection (f) of this section based
1821 on the aggregate dollar amount of the residential mortgage loans
1822 negotiated or offered to be negotiated by its sponsored mortgage loan
1823 originator licensees. The principal on a bond required by this
1824 subdivision shall annually confirm that it maintains the required penal
1825 sum in the amount required by this subdivision. Not later than
1826 September 1, 2012, and each September first thereafter, a licensee shall
1827 file with the commissioner such information as the commissioner may
1828 require to confirm that the penal sum of the bond remains consistent

1829 with the amount required by this section. The principal shall file not
1830 later than September first of the applicable year, or on such other date
1831 as the commissioner may require pursuant to subsection (h) of this
1832 section, any bond rider or endorsement to the surety bond on file with
1833 the commissioner to reflect any changes necessary to maintain the
1834 surety bond coverage required by this section.

1835 [(2)] (b) The form of any surety bond submitted pursuant to
1836 subsection (a) of this section shall be approved by the Attorney
1837 General. Any surety bond filed under subsection (a) of this section
1838 shall be conditioned upon the debt negotiation licensee and any
1839 sponsored mortgage loan originator licensee faithfully performing any
1840 and all written agreements [with debtors] or commitments with or for
1841 the benefit of debtors and mortgagors, as applicable, truly and
1842 faithfully accounting for all funds received from a debtor or mortgagor
1843 by the principal or a mortgage loan originator sponsored by the
1844 principal in the principal's capacity as debt negotiation licensee, and
1845 conducting such business consistent with the provisions of sections
1846 36a-485 to 36a-498f, inclusive, 36a-534a, 36a-534b and 36a-671 to 36a-
1847 671d, inclusive, as amended by this act. Any debtor or mortgagor who
1848 may be damaged by a failure to perform any written agreements, by
1849 the wrongful conversion of funds paid by a debtor or mortgagor to a
1850 debt negotiation licensee or mortgage loan originator licensee, or by
1851 conduct inconsistent with the provisions of sections 36a-485 to 36a-
1852 498f, inclusive, 36a-534a, 36a-534b and 36a-671 to 36a-671d, inclusive,
1853 as amended by this act, may proceed on any such surety bond against
1854 the principal or surety thereon, or both, to recover damages. The
1855 commissioner may proceed on any such surety bond against the
1856 principal or surety thereon, or both, to collect any civil penalty
1857 imposed upon the licensee pursuant to subsection (a) of section 36a-50
1858 and any unpaid costs of examination of a licensee as determined
1859 pursuant to section 36a-65, as amended by this act. The proceeds of
1860 any bond, even if commingled with other assets of the [licensee]
1861 principal, shall be deemed by operation of law to be held in trust for
1862 the benefit of such claimants against the [licensee] principal in the
1863 event of bankruptcy of the [licensee] principal and shall be immune

1864 from attachment by creditors and judgment creditors. Any bond
1865 required by this section shall be maintained during the entire period of
1866 the license granted to the applicant, and the aggregate liability under
1867 any such bond shall not exceed the [principal] penal amount of the
1868 bond. The principal shall notify the commissioner of the
1869 commencement of an action on the bond. When an action is
1870 commenced on a principal's bond, the commissioner may require the
1871 filing of a new bond and immediately on recovery on any action on the
1872 bond, the principal shall file a new bond. Any mortgagor or
1873 prospective mortgagor who may be damaged by a failure of the debt
1874 negotiation licensee or mortgage loan originator licensee to satisfy a
1875 judgment against the licensee arising from the negotiation of or offer to
1876 negotiate a nonprime home loan, as defined in section 36a-760, as
1877 amended by this act, may proceed on such bond against the principal
1878 or surety on such bond, or both, to recover the amount of the
1879 judgment.

1880 [(b)] (c) The surety shall have the right to cancel any bond written or
1881 issued under subsection (a) of this section at any time by a written
1882 notice to the debt negotiation licensee stating the date cancellation
1883 shall take effect. Such notice shall be sent by certified mail to the
1884 licensee at least thirty days prior to the date of cancellation. No such
1885 bond shall be cancelled unless the surety notifies the commissioner in
1886 writing not less than thirty days prior to the effective date of
1887 cancellation. After receipt of such notification from the surety, the
1888 commissioner shall give written notice to the debt negotiation licensee
1889 of the date such bond cancellation shall take effect. The commissioner
1890 shall automatically suspend the [license on such date] licenses of the
1891 debt negotiation licensee on such date and inactivate the license of any
1892 sponsored mortgage loan originator, unless prior to such date the debt
1893 negotiation licensee submits a letter of reinstatement of the bond from
1894 the surety or a new bond, [or the licensee has surrendered the license]
1895 surrenders all licenses or, in the case of a mortgage loan originator
1896 sponsored by a debt negotiation licensee, the sponsorship has been
1897 terminated and a new sponsor has been requested and approved. After
1898 a license has been automatically suspended, the commissioner shall

1899 give the debt negotiation licensee notice of the automatic suspension
1900 pending proceedings for revocation or refusal to renew and an
1901 opportunity for a hearing on such actions in accordance with section
1902 36a-51, as amended by this act, and shall require the debt negotiation
1903 licensee to take or refrain from taking such action as, in the opinion of
1904 the commissioner, will effectuate the purposes of this section.

1905 ~~[(c)]~~ (d) No licensee shall use, attempt to use or make reference to,
1906 either directly or indirectly, any word or phrase that states or implies
1907 that the licensee is endorsed, sponsored, recommended, bonded or
1908 insured by the state.

1909 (e) The penal sum of the bond required by subdivision (4) of
1910 subsection (a) of this section shall be determined as follows:

1911 (1) An initial applicant for a debt negotiation license shall file a bond
1912 in a penal sum of fifty thousand dollars.

1913 (2) A debt negotiation licensee sponsoring and bonding at least one
1914 mortgage loan originator as an exempt registrant under subdivision (2)
1915 of subsection (a) and subsection (c) of section 36a-487, as amended by
1916 this act, shall file a bond with a penal sum in the following amount:

1917 (A) If the aggregate dollar amount of all residential mortgage loans
1918 negotiated or offered to be negotiated by all sponsored mortgage loan
1919 originators during the preceding twelve-month period ending July
1920 thirty-first of the current year is less than thirty million dollars, the
1921 penal sum of the bond shall be fifty thousand dollars;

1922 (B) If the aggregate dollar amount of all residential mortgage loans
1923 negotiated or offered to be negotiated by all sponsored mortgage loan
1924 originators during the preceding twelve-month period ending July
1925 thirty-first of the current year is thirty million dollars or more but less
1926 than fifty million dollars, the penal sum of the bond shall be one
1927 hundred thousand dollars; and

1928 (C) If the aggregate dollar amount of all residential mortgage loans
1929 negotiated or offered to be negotiated by all sponsored mortgage loan

1930 originators during the preceding twelve-month period ending July
1931 thirty-first of the current year is fifty million dollars or more, the penal
1932 sum of the bond shall be one hundred fifty thousand dollars.

1933 (f) For purposes of subsection (e) of this section, the aggregate dollar
1934 amount of all residential mortgage loans negotiated or offered to be
1935 negotiated shall mean the aggregate underlying dollar amount of all
1936 residential mortgage loans for which a sponsored mortgage loan
1937 originator provides debt negotiation services.

1938 (g) Financial information necessary to verify the aggregate amount
1939 of residential mortgage loans negotiated or offered to be negotiated
1940 shall be filed with the commissioner as the commissioner may require,
1941 and shall be reported on the system, as defined in section 36a-485, as
1942 amended by this act, at such time and in such form as the system may
1943 require. The commissioner may require a change in the penal sum of
1944 the bond if the commissioner determines at any time that the aggregate
1945 dollar amount of all residential mortgage loans negotiated or offered to
1946 be negotiated warrants a change in the penal sum of the bond.

1947 (h) The commissioner may adopt regulations in accordance with
1948 chapter 54 with respect to the requirements for such surety bonds.

1949 Sec. 45. Section 36a-760 of the general statutes is repealed and the
1950 following is substituted in lieu thereof (*Effective from passage*):

1951 (a) As used in this section and sections 36a-760a to 36a-760j,
1952 inclusive, as amended by this act:

1953 (1) "APR" has the same meaning as provided in section 36a-746a;

1954 (2) "CHFA loan" means a loan made, insured, purchased, subsidized
1955 or guaranteed by the Connecticut Housing Finance Authority;

1956 (3) "FHA loan" means a loan made, insured, purchased, subsidized
1957 or guaranteed by the Federal Housing Administration;

1958 (4) "First mortgage loan" has the same meaning as provided in

1959 section 36a-485, as amended by this act;

1960 (5) "Lender" means any person engaged in the business of the
1961 making of mortgage loans who is required to be licensed by the
1962 Department of Banking under chapter 668, or such person's successors
1963 or assigns, and also means any bank, out-of-state bank, Connecticut
1964 credit union, federal credit union, out-of-state credit union, or an
1965 operating subsidiary of a federal bank or a federally chartered out-of-
1966 state bank where such subsidiary engages in the business of making
1967 mortgage loans, and their successors and assigns, but does not include
1968 any mortgage broker, as defined in this section, or any mortgage loan
1969 originator, as defined in section 36a-485, as amended by this act;

1970 (6) "Mortgage broker" means any person, other than a lender, who
1971 (A) for a fee, commission or other valuable consideration, negotiates,
1972 solicits, arranges, places or finds a mortgage, and (B) who is required
1973 to be licensed by the Department of Banking under chapter 668, or
1974 such person's successors or assigns;

1975 (7) "Nonprime home loan" means any loan or extension of credit,
1976 excluding an open-end line of credit, and further excluding a reverse
1977 mortgage transaction, as defined in 12 CFR 226.33, as amended from
1978 time to time:

1979 (A) In which the borrower is a natural person;

1980 (B) The proceeds of which are to be used primarily for personal
1981 family or household purposes;

1982 (C) In which the loan is secured by a mortgage upon any interest in
1983 one-to-four family residential real property located in this state which
1984 is, or when the loan is made, intended to be used or occupied by the
1985 borrower as a principal residence;

1986 (D) In which the principal amount of the loan does not exceed four
1987 hundred seventeen thousand dollars;

1988 (E) Where the loan is not a CHFA loan; and

1989 (F) In which the conditions set forth in clauses (i) and (ii) of this
1990 subparagraph apply, subject to any adjustments made pursuant to
1991 clause (iii) of this subparagraph:

1992 (i) The difference, at the time of consummation, between the APR
1993 for the loan and the conventional mortgage rate is either equal to or
1994 greater than (I) one and three-quarters percentage points, if the loan is
1995 a first mortgage loan, or (II) three and three-quarters percentage
1996 points, if the loan is a secondary mortgage loan. For purposes of such
1997 calculation, "conventional mortgage rate" means the most recent
1998 contract interest rate on commitments for fixed-rate mortgages
1999 published by the Board of Governors of the Federal Reserve System in
2000 its statistical release H.15, or any publication that may supersede it,
2001 during the week preceding the week in which the interest rate for the
2002 loan is set. For purposes of determining the beginning of each weekly
2003 period, the first day of each week shall be the effective date for the
2004 applicable prime offer rate, as of the date the interest rate is set, as
2005 determined in accordance with subparagraph (F)(ii) of this
2006 subdivision.

2007 (ii) The difference, at the time of consummation, between the APR
2008 for the loan or extension of credit and the average prime offer rate for a
2009 comparable transaction, as of the date the interest rate is set, is greater
2010 than one and one-half percentage points if the loan is a first mortgage
2011 loan or three and one-half percentage points if the loan is a secondary
2012 mortgage loan. For purposes of this subparagraph, "average prime
2013 offer rate" has the meaning as provided in 12 CFR 226.35, as amended
2014 from time to time. For purposes of subparagraphs (F)(i) and (F)(ii) of
2015 this subdivision, the date the interest rate is set is the last date the
2016 interest rate is set, provided the rate is adjusted on or before
2017 consummation.

2018 (iii) The commissioner shall have the authority, after consideration
2019 of the relevant factors, to increase the percentages set forth in clauses
2020 (i) and (ii) of this subparagraph. [The authority of the commissioner,
2021 and any increases or decreases made under this clause, shall expire on

2022 August 31, 2010.] For purposes of this clause, the relevant factors to be
2023 considered by the commissioner shall include, but not be limited to,
2024 the existence and amount of increases in fees or charges in connection
2025 with purchases of mortgages by the Federal National Mortgage
2026 Association or the Federal Home Loan Mortgage Corporation and
2027 increases in fees or charges imposed by mortgage insurers and the
2028 impact, including the magnitude of the impact, that such increases
2029 have had, or will likely have, on APRs for mortgage loans in this state.
2030 When considering such factors, the commissioner shall focus on those
2031 increases that are related to the deterioration in the housing market
2032 and credit conditions. The commissioner may refrain from increasing
2033 such percentages if it appears that lenders are increasing interest rates
2034 or fees in bad faith or if increasing the percentages would be contrary
2035 to the purposes of sections 36a-760 to 36a-760f, inclusive, as amended
2036 by this act. No increase authorized by the commissioner to a particular
2037 percentage shall exceed one-quarter of one percentage point, and the
2038 total of all increases to a particular percentage under this clause shall
2039 not exceed one-half of one percentage point. No increase shall be made
2040 unless: (I) The increase is noticed in the Banking Department Bulletin
2041 and the Connecticut Law Journal, and (II) a public comment period of
2042 twenty days is provided. Any increase made under this clause shall be
2043 reduced proportionately when the need for the increase has
2044 diminished or no longer exists. The commissioner, in the exercise of his
2045 discretion, may authorize an increase in the percentages with respect
2046 to all loans or just with respect to a certain class or classes of loans;

2047 (8) "Open-end line of credit" means a mortgage extended by a
2048 lender under a plan in which: (A) The lender reasonably contemplates
2049 repeated transactions; (B) the lender may impose a finance charge from
2050 time to time on an outstanding unpaid balance; (C) the amount of
2051 credit that may be extended to the consumer during the term of the
2052 plan, up to any limit set by the lender, is generally made available to
2053 the extent that any outstanding balance is repaid; and (D) none of the
2054 proceeds of the open-end line of credit are used at closing to (i)
2055 purchase the borrower's primary residence, or (ii) refinance a
2056 mortgage loan that had been used by the borrower to purchase the

2057 borrower's primary residence;

2058 [(9) "Residential property" has the same meaning as provided in
2059 section 36a-485;]

2060 [(10)] (9) "Secondary mortgage loan" has the same meaning as
2061 provided in section 36a-485, as amended by this act.

2062 (b) The provisions of sections 36a-760a to 36a-760i, inclusive, shall
2063 be applicable to nonprime home loans and mortgages, as appropriate,
2064 for which applications have been received on or after August 1, 2008.

2065 Sec. 46. Section 36a-760j of the general statutes is repealed and the
2066 following is substituted in lieu thereof (*Effective from passage*):

2067 No person shall influence real estate appraisals of residential
2068 property. For the purposes of this section, "influence residential real
2069 estate appraisals" means to directly or indirectly coerce, influence or
2070 otherwise encourage an appraiser to misstate or misrepresent the
2071 value of residential property and includes, but is not limited to: (1)
2072 Refusal, or intentional failure, to pay an appraiser for an appraisal that
2073 reflects a fair market value estimate that is less than the sale contract
2074 price; or (2) refusal, or intentional failure, to utilize, or encouraging
2075 other mortgage brokers not to utilize, an appraiser based solely on the
2076 fact that the appraiser provided an appraisal reflecting a fair market
2077 value estimate that was less than the sale contract price.

2078 Sec. 47. Subdivision (1) of subsection (b) of section 36a-801 of the
2079 general statutes is repealed and the following is substituted in lieu
2080 thereof (*Effective October 1, 2011*):

2081 (b) (1) Any person desiring to act within this state as a consumer
2082 collection agency shall make a written application to the commissioner
2083 for such license in such form as the commissioner prescribes. Such
2084 application shall be accompanied by (A) a financial statement prepared
2085 by a certified public accountant or a public accountant, the accuracy of
2086 which is sworn to under oath before a notary public by the proprietor,
2087 a general partner or a corporate officer or a member duly authorized to

2088 execute such documents, (B) (i) the history of criminal convictions [for
2089 the ten-year period prior to the date of the application] of the (I)
2090 applicant; (II) partners, if the applicant is a partnership; (III) members,
2091 if the applicant is a limited liability company or association; or (IV)
2092 officers, directors and principal employees, if the applicant is a
2093 corporation, and (ii) sufficient information pertaining to the history of
2094 criminal convictions of such applicant, partners, members, officers,
2095 directors and principal employees in a form acceptable to the
2096 commissioner, (C) a license fee of eight hundred dollars, or in the case
2097 of an initial application that is filed not earlier than one year before the
2098 date such license will expire, a license fee of four hundred dollars, and
2099 (D) an investigation fee of one hundred dollars. The commissioner
2100 shall cause to be made such inquiry and examination as to the
2101 qualifications of each such applicant or any partner, member, officer,
2102 director or principal employee of the applicant as the commissioner
2103 deems necessary. The commissioner, in accordance with section 29-
2104 17a, may conduct a state and national criminal history records check of
2105 the applicant and of each partner, member, officer, director and
2106 principal employee of such applicant. Each applicant shall furnish
2107 satisfactory evidence to the commissioner that the applicant is a person
2108 of good moral character and is financially responsible. If the
2109 commissioner is satisfied that such applicant is in all respects properly
2110 qualified and trustworthy and that the granting of such license is not
2111 against the public interest, the commissioner may issue to such
2112 applicant a license, in such form as the commissioner may adopt, to act
2113 within this state as a consumer collection agency. The commissioner
2114 may deny an application if the commissioner finds that the applicant
2115 or any partner, member, officer, director or principal employee of such
2116 applicant has been convicted [, during the ten-year period prior to the
2117 date of application,] of any misdemeanor involving any aspect of the
2118 consumer collection agency business, or any felony. Any denial of an
2119 application by the commissioner shall, when applicable, be subject to
2120 the provisions of section 46a-80. Any such license issued by the
2121 commissioner shall expire at the close of business on September
2122 thirtieth of the odd-numbered year following its issuance, unless such

2123 license is renewed. The commissioner may renew such application, in
2124 the commissioner's discretion, upon filing of a proper renewal
2125 application accompanied by a license fee of eight hundred dollars, and
2126 satisfactory proof that such applicant at that time possesses the
2127 required qualifications for the license. The commissioner may deny a
2128 renewal application if the commissioner finds that the applicant has
2129 been convicted [, during the ten-year period prior to the date of
2130 application,] of any misdemeanor involving any aspect of the
2131 consumer collection agency business, or any felony. Any denial of an
2132 application by the commissioner shall, when applicable, be subject to
2133 the provisions of section 46a-80. Such renewal application shall be filed
2134 with the commissioner on or before September first of the year in
2135 which the license expires. Any renewal application filed with the
2136 commissioner after September first shall be accompanied by a one-
2137 hundred-dollar late fee and any such filing shall be deemed to be
2138 timely and sufficient for purposes of subsection (b) of section 4-182.
2139 Whenever an application for a license, other than a renewal
2140 application, is filed under sections 36a-800 to 36a-810, inclusive, as
2141 amended by this act, by any person who was a licensee under said
2142 sections 36a-800 to 36a-810, inclusive, as amended by this act, and
2143 whose license expired less than sixty days prior to the date such
2144 application was filed, such application shall be accompanied by a one-
2145 hundred-dollar processing fee in addition to the application fee. To
2146 further the enforcement of this section and to determine the eligibility
2147 of any person holding a license, the commissioner may, as often as the
2148 commissioner deems necessary, examine the licensee's books and
2149 records, and may, at any time, require the licensee to submit such a
2150 financial statement for the examination of the commissioner, so that
2151 the commissioner may determine whether the licensee is financially
2152 responsible to carry on a consumer collection agency business within
2153 the intents and purposes of sections 36a-800 to 36a-810, inclusive, as
2154 amended by this act. Any financial statement submitted by a licensee
2155 shall be confidential and shall not be a public record unless introduced
2156 in evidence at a hearing conducted by the commissioner. The applicant
2157 or licensee shall notify the commissioner, in writing, of any change in

2158 the information provided in its initial application for license or most
2159 recent renewal application for such license, as applicable, not later than
2160 ten business days after the occurrence of the event that results in such
2161 information becoming inaccurate. The commissioner may deem an
2162 application for a license to act as a consumer collection agency
2163 abandoned if the applicant fails to respond to any request for
2164 information required under sections 36a-801 to 36a-810, inclusive, as
2165 amended by this act, or any regulations adopted pursuant to said
2166 sections 36a-801 to 36a-810, inclusive. The commissioner shall notify
2167 the applicant, in writing, that if the applicant fails to submit such
2168 information not later than sixty days after the date on which such
2169 request for information was made, the application shall be deemed
2170 abandoned. An application filing fee paid prior to the date an
2171 application is deemed abandoned pursuant to this subsection shall not
2172 be refunded. Abandonment of an application pursuant to this
2173 subsection shall not preclude the applicant from submitting a new
2174 application for a license under sections 36a-801 to 36a-810, inclusive, as
2175 amended by this act.

2176 Sec. 48. Subdivision (3) of subsection (b) of section 53-379a of the
2177 general statutes is repealed and the following is substituted in lieu
2178 thereof (*Effective October 1, 2011*):

2179 (3) For purposes of this section, (A) "person" means (i) a mortgage
2180 broker, mortgage lender, [mortgage loan originator or] mortgage
2181 correspondent lender, [as] mortgage loan originator, loan processor or
2182 underwriter, as such terms are defined in section 36a-485, as amended
2183 by this act, or (ii) any other individual who is a mortgagor on more
2184 than three individual mortgage loans or who purchases or sells more
2185 than three residential properties in a consecutive twelve-month period;
2186 (B) "mortgage lending process" means the process through which an
2187 individual seeks or obtains a residential mortgage loan, including
2188 solicitation, application, origination, negotiation of terms,
2189 underwriting, signing, closing and funding of a residential mortgage
2190 loan and services provided incident to such mortgage loan, including
2191 the appraisal of the residential property; and (C) "residential property"

2192 means "residential property" as defined in section 36a-485, as amended
2193 by this act.

2194 Sec. 49. Subsection (e) of section 36b-6 of the general statutes is
2195 repealed and the following is substituted in lieu thereof (*Effective from*
2196 *passage*):

2197 (e) The following investment advisers are exempted from the
2198 registration requirements under subsection (c) of this section: Any
2199 investment adviser that (1) is registered or required to be registered
2200 under Section 203 of the Investment Advisers Act of 1940; (2) is
2201 excepted from the definition of investment adviser under Section
2202 202(a)(11) of the Investment Advisers Act of 1940; or (3) has no place of
2203 business in this state and, during the preceding twelve months, has
2204 had no more than five clients who are residents of this state. Any
2205 investment adviser claiming an exemption pursuant to subdivision (1)
2206 [or (2)] of this subsection that is not otherwise excluded under
2207 subsection (11) of section 36b-3, shall first file with the commissioner a
2208 notice of exemption together with a consent to service of process as
2209 required by subsection (g) of section 36b-33 and shall pay to the
2210 commissioner or to any person designated by the commissioner in
2211 writing to collect such fee on behalf of the commissioner a
2212 nonrefundable fee of two hundred fifty dollars. The notice of
2213 exemption shall contain such information as the commissioner may
2214 require. Such notice of exemption shall be valid until December thirty-
2215 first of the calendar year in which it was first filed and may be
2216 renewed annually thereafter upon submission of such information as
2217 the commissioner may require together with a nonrefundable fee of
2218 one hundred fifty dollars. If any investment adviser that is exempted
2219 from registration pursuant to subdivision (1) [or (2)] of this subsection
2220 fails or refuses to pay any fee required by this subsection, the
2221 commissioner may require such investment adviser to register
2222 pursuant to subsection (c) of this section. For purposes of this
2223 subsection, a delay in the payment of a fee or an underpayment of a
2224 fee which is promptly remedied shall not constitute a failure or refusal
2225 to pay such fee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	36a-1
Sec. 2	<i>October 1, 2011</i>	36a-21(e)
Sec. 3	<i>from passage</i>	36a-51(c)
Sec. 4	<i>October 1, 2011</i>	36a-53b
Sec. 5	<i>from passage</i>	36a-65(c)(6)
Sec. 6	<i>from passage</i>	36a-299(b)
Sec. 7	<i>October 1, 2011</i>	36a-485(10)
Sec. 8	<i>October 1, 2011</i>	36a-485(15)
Sec. 9	<i>October 1, 2011</i>	36a-485(26)
Sec. 10	<i>October 1, 2011</i>	36a-486(b)
Sec. 11	<i>October 1, 2011</i>	36a-487
Sec. 12	<i>from passage</i>	36a-488(b)
Sec. 13	<i>October 1, 2011</i>	36a-488(c)
Sec. 14	<i>October 1, 2011</i>	36a-489(a)(2)
Sec. 15	<i>October 1, 2011</i>	36a-489(b)
Sec. 16	<i>from passage</i>	36a-489(e)
Sec. 17	<i>from passage</i>	36a-489a
Sec. 18	<i>from passage</i>	36a-490(a) and (b)
Sec. 19	<i>from passage</i>	36a-490(d) and (e)
Sec. 20	<i>October 1, 2011</i>	36a-491
Sec. 21	<i>July 1, 2011</i>	36a-492
Sec. 22	<i>October 1, 2011</i>	36a-494(a)(2)
Sec. 23	<i>from passage</i>	36a-498(h)
Sec. 24	<i>October 1, 2011</i>	36a-498d
Sec. 25	<i>October 1, 2011</i>	36a-498e(6)
Sec. 26	<i>October 1, 2011</i>	36a-534b(a)(1)
Sec. 27	<i>from passage</i>	36a-534b(a)(6)
Sec. 28	<i>October 1, 2011</i>	36a-534b(c)(3)
Sec. 29	<i>October 1, 2011</i>	36a-537
Sec. 30	<i>October 1, 2011</i>	36a-541
Sec. 31	<i>October 1, 2011</i>	36a-556
Sec. 32	<i>October 1, 2011</i>	36a-557(a)
Sec. 33	<i>from passage</i>	36a-573(c)
Sec. 34	<i>October 1, 2011</i>	36a-581
Sec. 35	<i>October 1, 2011</i>	36a-598
Sec. 36	<i>October 1, 2011</i>	36a-600(c)
Sec. 37	<i>October 1, 2011</i>	36a-663
Sec. 38	<i>October 1, 2011</i>	36a-656

Sec. 39	<i>July 1, 2011</i>	36a-664(b)
Sec. 40	<i>October 1, 2011</i>	36a-671(b) to (d)
Sec. 41	<i>October 1, 2011</i>	New section
Sec. 42	<i>from passage</i>	36a-671a
Sec. 43	<i>October 1, 2011</i>	36a-671c
Sec. 44	<i>October 1, 2011</i>	36a-671d
Sec. 45	<i>from passage</i>	36a-760
Sec. 46	<i>from passage</i>	36a-760j
Sec. 47	<i>October 1, 2011</i>	36a-801(b)(1)
Sec. 48	<i>October 1, 2011</i>	53-379a(b)(3)
Sec. 49	<i>from passage</i>	36b-6(e)

Statement of Legislative Commissioners:

In section 11 (a)(3), "any person (A) engaged solely in providing loan processing or underwriting services to persons licensed" was changed to "any person engaged solely in providing loan processing or underwriting services to persons (A) licensed" for accuracy and clarity. In section 17 (b)(4)(C)(iii), "shall retake the test" at the end of the sentence was deleted for accuracy and clarity.

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Banking Dept.	BF - Revenue Gain	15,000 - 30,000	15,000 - 30,000

Note: BF=Banking Fund

Municipal Impact: None

Explanation

The bill results in a revenue gain of \$15,000 to \$30,000 to the Banking Fund by extending the \$300 Loan Originator license fee to applicants for a Loan Processor or Underwriter license. An estimated fifty to one-hundred such applicants are anticipated.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of applicants.

OLR Bill Analysis**sSB 1110*****AN ACT CONCERNING CONSUMER CREDIT LICENSES AND THE CONNECTICUT UNIFORM SECURITIES ACT.*****SUMMARY:**

This bill makes numerous changes to the banking law.

The bill changes and expands licensing requirements for loan processors or underwriters. Under current law, loan processors or underwriters who are independent contractors need to be licensed as mortgage loan originators. The bill instead requires such independent contractors and certain other loan processors or underwriters to be licensed as processors or underwriters. It does not require licensing for loan processors or underwriters who work for (1) a licensed mortgage lender, correspondent lender, or broker or (2) federally insured banks or credit unions, as well as certain subsidiaries of such entities.

The mechanics of the bill's application and licensing requirements for loan processors or underwriters largely track existing requirements for originators. The bill also applies to loan processor or underwriter licensees several provisions that currently apply to originators as well as other mortgage licensees, such as the commissioner's authority to suspend, revoke, or refuse to renew licensees and the prohibition against residential mortgage fraud and other specified activities.

The bill makes several other changes affecting mortgage licensees. The bill adds to the list of those who are excluded from licensing requirements. It also allows individuals or entities who are exempt from licensing to register for purposes of sponsoring a mortgage loan originator or loan processor or underwriter, without affecting the exempt status. It expands the reach of, and makes other modifications

to, prelicensing education, testing, and continuing education requirements. It also increases the surety bond requirement, including setting a schedule for the required amount based on the value of mortgage loans the licensee or exempt sponsor originates.

It modifies exclusions from the definition of mortgage loan originator and makes other changes regarding the scope of the originator licensing requirement. It also makes changes regarding mortgage license abandonment and surrender.

The bill expands the current requirement for applicants for various banking department licenses to provide a history of their criminal convictions and those of certain individuals connected to the applicant. It:

1. allows the banking commissioner to conduct state and national criminal background checks of such applicants and individuals,
2. expands the commissioner's authority to deny such applications on the basis of criminal convictions, and
3. allows the commissioner to deem such applications abandoned if the applicant fails to respond to information requests required by the banking law.

The bill modifies the attorney exemption to debt adjuster or negotiator licensing and makes other changes regarding debt adjusters and negotiators. For example, it sets specific requirements concerning debt negotiation of a residential mortgage loan on a borrower's behalf.

The bill makes several other changes, such as

1. expanding the existing prohibition on fraudulent conduct,
2. changing the limit on the permissible number of certain bank transfers,
3. specifying that the existing prohibition on increases of mortgage interest rates due to default only applies to residential loans,

4. changing the definition of “nonprime home loan” for purposes of regulating of such loans,
5. changing the definition of “influence residential real estate appraisals” for purposes of the prohibition on such activity, and
6. eliminating specified requirements for certain investment advisers who are exempt from state registration.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Various; see below

§ 1 — SCOPE OF BANKING LAWS

The bill specifies that Connecticut’s banking laws apply to loan processors or underwriters as well as people offering or engaging in debt negotiation. Current law specifies that the banking laws apply to several categories of businesses and persons, as well as to other people who subject themselves to its provisions or who, by violating any of its provisions, become subject to its penalties.

As detailed below, the bill provides for loan processor or underwriter licensing. The law already provides for licensing debt negotiators.

EFFECTIVE DATE: October 1, 2011

§ 4 — FRAUDULENT CONDUCT

Current law prohibits individuals licensed or registered with the banking commissioner, in connection with activities for which they are licensed or registered, from (1) using methods to defraud, (2) making a false statement or omitting a material fact, or (3) engaging in any fraudulent activity. The bill extends these prohibitions to include any individuals, companies, or other legal entities in connection with any activity subject to the commissioner’s jurisdiction.

By law, violators face fines of \$25 to \$1,000 per offense. If the violation is willful and deliberate, the penalty is up to a year’s

imprisonment, up to a \$1,000 fine, or both, for each offense.

EFFECTIVE DATE: October 1, 2011

§ 6 — LIMITATION ON BANK TRANSFERS

Under current law, a Connecticut bank may permit transfers by negotiable withdrawal order from savings accounts in which a for-profit organization holds a beneficial interest, provided that under the terms of the deposit contract, the depositor may make no more than three transfers by negotiable withdrawal order or check during any month or statement cycle of at least four weeks. The bill applies the limitation to any types of transfers and thus eliminates the following exceptions:

1. preauthorized or automatic transfers made by other means;
2. telephone transfers;
3. transfers to the bank at which the savings account is held to repay loans and associated expenses and to cover overdrafts; or
4. transfers to another account the depositor has at the bank and withdrawals when the transfers or withdrawals are made by mail, messenger, automated teller machine, or in person.

The bill also changes the transfer limitation from the current three to the number permitted by the applicable Federal Reserve regulation. The Federal Reserve regulations currently allow up to six transfers or withdrawals per calendar month or four-week statement cycle (12 C.F.R § 204.2(d)(2)).

The bill provides that the transfer limitation may be in the bank's practice as well as the terms of the deposit contract.

EFFECTIVE DATE: Upon passage

§ 23 — INCREASE OF MORTGAGE INTEREST RATE DUE TO DEFAULT

For mortgage applications received on or after October 1, 2009,

current law prohibits mortgage lenders and correspondent lenders from including in a mortgage a provision that increases the interest rate as a result of default. The bill specifies that this prohibition applies only to residential mortgage loans.

By law, this prohibition does not apply if the default is a failure to comply with a provision to maintain an automatic electronic payment feature, the provision was provided in return for an interest rate reduction, and the increase is no greater than the reduction.

EFFECTIVE DATE: Upon passage

§ 45 — NONPRIME HOME LOANS

The law sets criteria for what constitutes a nonprime home loan, imposes various requirements on making nonprime home loans, and restricts allowable provisions in such loans.

Among various other requirements, current law specifies that a nonprime home loan is one in which the difference, at the time of consummation, between the loan's annual percentage rate (APR) and the conventional mortgage rate is at least 1.75% for a first mortgage or 3.75% for a second mortgage. The conventional mortgage rate is the contract interest rate on commitments for fixed-rate mortgages published by the Federal Reserve during the week before the week in which the loan's interest rate is set. The bill specifies that the conventional mortgage rate is the most recent contract rate as determined above. It also specifies that the first day of each such week is the effective date of the applicable prime offer rate, as of the date the interest rate is set.

The law also specifies that a nonprime home loan is one in which the difference, at the time of consummation, between the APR and the average prime offer rate for a comparable transaction, as of the date the interest rate is set, is greater than 1.5% if the loan is a first mortgage loan or 3.5% if the loan is a secondary mortgage loan.

The bill specifies that for these purposes, the date the loan's interest

rate is set is the last date on which the rate is set, provided the rate is adjusted on or before consummation.

The bill reinstates the banking commissioner's authority to increase these interest rate parameters after considering relevant factors, which expired on August 31, 2010.

EFFECTIVE DATE: Upon passage

§ 46 — INFLUENCING RESIDENTIAL REAL ESTATE APPRAISALS

The law prohibits anyone from influencing residential real estate appraisals. The bill defines "influence residential real estate appraisals" as directly or indirectly coercing, influencing, or otherwise encouraging an appraiser to misstate or misrepresent the value of residential property.

EFFECTIVE DATE: Upon passage

§ 49 — INVESTMENT ADVISERS

State securities law requires investment advisers to register with the state banking commissioner, with certain exemptions. One exemption is for investment advisers who are excepted from the definition of investment adviser under Section 202(a)(11) of the federal Investment Advisers Act of 1940.

The bill eliminates certain requirements for investment advisers who fit within this exemption and are not otherwise excluded from the definition of investment adviser under state law (see BACKGROUND). These requirements are that the advisers (1) file with the commissioner a notice of exemption from state registration along with a consent to service of process and (2) pay certain fees. The bill also eliminates the commissioner's authority to require full state registration if such advisers fail to pay these fees.

EFFECTIVE DATE: Upon passage

LOAN PROCESSORS OR UNDERWRITERS

Except as noted, the following changes apply only to loan

processors or underwriters. The section on mortgage licenses is general (see below) includes some provisions that affect processors or underwriters and other categories of mortgage licensees.

§ 7 — Definition

The bill broadens the definition of loan processor or underwriter. It also specifies that “loan processor or underwriter” is a single term for purposes of the banking law.

Under current law, a loan processor or underwriter is someone who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of someone licensed or exempt from licensure as a mortgage loan originator, broker, lender, or correspondent lender (although other provisions of law contemplate loan processors or underwriters who are independent contractors). Under the bill, anyone who performs clerical and support duties is a loan processor or underwriter.

EFFECTIVE DATE: October 1, 2011

§ 10 — Licensing and Sponsorship

Current law prohibits loan processors or underwriters who are independent contractors from engaging in loan processor or underwriter activities unless they are licensed as mortgage loan originators. The bill instead requires loan processors to obtain and maintain a license as a loan processor or underwriter if they are (1) independent contractors or (2) employed by anyone other than (a) licensed lenders, correspondent lenders, or brokers or (b) a federally insured state, federal, or out-of-state bank or credit union, an operating subsidiary of a federal bank or federally-chartered out-of-state bank, or a wholly-owned subsidiary of a Connecticut bank or credit union.

The bill requires licensed loan processors or underwriters to register with, and maintain a valid unique identifier issued by, the Nationwide Mortgage Licensing System (system).

The bill prohibits licensed mortgage lenders, correspondent lenders,

or brokers from engaging the services of an unlicensed loan processor or underwriter who is required to be licensed.

Additionally, a loan processor or underwriter license is not effective during any period when the person is not sponsored by (1) a licensed lender, correspondent lender, or broker or (2) a person who is exempt from mortgage licensing requirements and registered on the system as an exempt registrant for sponsoring purposes. The processor or underwriter's license is also not effective when the sponsoring lender's or broker's license is suspended.

The bill allows loan processors or underwriters, or their sponsors, to file a notification of termination of sponsorship with the system. It specifies that exempt registrant sponsors may file such a notification.

By law, all of the above provisions apply for mortgage loan originator licensees.

EFFECTIVE DATE: October 1, 2011

§ 13 — Application Requirements

The bill specifies that (1) loan processor or underwriter or (2) originator licensees must be individuals rather than "persons," which include entities.

The bill outlines application requirements for loan processors or underwriters. The applicant must file a license application for a specified office or license renewal with the system in a form prescribed by the commissioner. The form must contain content as set forth by the commissioner, and the commissioner may change or update the form as necessary to carry out the law's purposes as to mortgage licensing, participation in the system, and notice of discriminatory lending practices.

At a minimum, the applicant must provide the system, in a form prescribed by the system, information (1) concerning the applicant's identity, including personal history and experience and (2) related to

any government's administrative, civil, or criminal findings. Applicants must also provide the system with fingerprints for submission to the FBI and any governmental entity authorized to receive such information for a state, national, and international criminal background check. The foregoing application requirements are identical to the law's requirements for originator applicants.

The bill allows licensed mortgage loan originators to act also as loan processors or underwriters.

EFFECTIVE DATE: October 1, 2011

§ 15 — Standards for License Issuance and Renewal

The following requirements are identical to the current law's requirements for mortgage originator licenses.

Minimum Standards for License Issuance. Under the bill, the commissioner cannot issue an initial license for a loan processor or underwriter unless he, at a minimum, finds that the applicant has:

1. never had an equivalent license revoked in any government jurisdiction, except that a subsequent formal vacating of such revocation is not deemed a revocation;
2. regardless of the law on denial of employment based on prior convictions, has not been convicted of, or pled guilty or nolo contendere to, a felony in any court (a) during the seven years before the application or (b) any time before the application if the felony involved fraud, dishonesty, breach of trust, or money laundering (for these purposes, convictions that are pardoned do not count as convictions);
3. demonstrated the financial responsibility, character, and general fitness to command community confidence and warrant a determination that the applicant will operate honestly, fairly, and efficiently within the law's purposes as to mortgage licensing, participation in the system, and notice of

discriminatory lending practices;

4. completed the prelicensing education requirement and passed a written test as required by the bill;
5. met the surety bond requirement; and
6. has not made a material misstatement in the application.

If the commissioner denies a license application, he must notify the applicant, and may notify the sponsor or anyone else the commissioner deems appropriate, of the denial and the reasons for it.

Minimum Standards for License Renewal. The bill provides that in order to renew a loan processor or underwriter license, the licensee, at a minimum, must (1) continue to meet the minimum standards for license issuance outlined above; (2) have satisfied the annual continuing education requirements; and (3) have paid all required license renewal fees.

If these standards are not met, the license expires. The commissioner may adopt procedures to reinstate expired licenses consistent with the system's standards.

EFFECTIVE DATE: October 1, 2011

§ 24 — Unique Identifier on Documents

The bill requires any licensed loan processor or underwriter to clearly show his or her unique identifier (a number or other identifier assigned by system-established protocols) on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or websites, and any other documents as established by rule, regulation, or order of the commissioner. By law, the same requirement applies for mortgage loan originators.

EFFECTIVE DATE: October 1, 2011

§ 19 — When Licenses Remain in Effect

By law, mortgage lender, correspondent lender, broker, and originator licenses remain effective and in force until they have been surrendered, revoked, suspended, expire, or are no longer effective, in accordance with the banking law. The bill extends this provision to loan processor or underwriter licenses.

EFFECTIVE DATE: Upon passage

§ 20 — License Expiration

The bill extends to loan processor or underwriter licenses the current law on license expiration applicable to lenders, correspondent lenders, brokers, and originators. Unless renewed, a license expires on the close of business on December 31 of the year it was approved. Licenses approved on or after November 1 expire at the end of December the following year. Applications for renewal licenses must be filed between November 1 and December 31 in the expiration year.

The bill also extends to applicants for a loan processor or underwriter license the \$300 fee that applies to originators, in addition to any system-required fees (by law, lenders, correspondent lenders, and brokers pay higher licensing fees).

EFFECTIVE DATE: October 1, 2011

§ 22 — Commissioner's Authority to Suspend, Revoke, or Refuse to Renew License

The bill extends to loan processor or underwriter licenses the same rules that already apply to originators regarding the commissioner's authority to suspend, revoke, or refuse to renew licenses. The commissioner may take such actions, or other actions in accordance with current law on his authority over such matters, for any reason which would give him sufficient grounds to deny a license application under the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices. He may also take such actions if he finds that the licensee has

1. committed fraud;

2. misappropriated funds;
3. misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any material particulars of a residential mortgage transaction; or
4. violated any provision of the banking laws or regulations or other laws or regulations that apply to the licensee's business conduct.

EFFECTIVE DATE: October 1, 2011

§ 25 — Prohibited Acts

The law prohibits anyone subject to the mortgage licensing law from taking various actions (see BACKGROUND). The bill extends these prohibitions to licensed processors or underwriters. One such prohibition concerns conducting any business as a lender, correspondent lender, broker, or originator without holding a valid license or assisting or aiding and abetting any person in the conduct of such businesses without a valid license.

EFFECTIVE DATE: October 1, 2011

§§ 9, 26, 28 — System-Related Requirements

Various provisions in the mortgage licensing statutes refer to the Nationwide Mortgage Licensing System. The bill amends the definition of system to include loan processors or underwriters as people who are licensed and registered with the system.

By law, the banking commissioner must participate in the system. The bill extends to loan processors or underwriters various system-related requirements that currently apply to mortgage lenders, correspondent lenders, brokers, and originators (see BACKGROUND).

EFFECTIVE DATE: October 1, 2011

§ 48 — Residential Mortgage Fraud

The bill expands the reach of the criminal prohibition on residential

mortgage fraud (see BACKGROUND) to include fraud committed by loan processors or underwriters. The law already applies the prohibition to (1) mortgage brokers, lenders, correspondent lenders, or loan originators or (2) anyone else who is a mortgagor on more than three mortgage loans or who purchases or sells more than three residential properties in a consecutive 12-month period.

EFFECTIVE DATE: October 1, 2011

§ 2 — Confidentiality of Banking Department Records

By law, certain Banking Department records are not generally disclosable or subject to public inspection or discovery. The bill provides that the banking law's confidentiality provisions do not apply to records relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan processors or underwriters that are included in the system for public access. The law already excludes such records relating to mortgage loan originators from the confidentiality provisions.

EFFECTIVE DATE: October 1, 2011

MORTGAGE LICENSES IN GENERAL

§§ 3, 18 — License Surrender

By law, anyone issued a license by the banking commissioner (other than licenses issued under the securities and business investment laws) may surrender the license to the commissioner, in person or by registered or certified mail. The surrender does not affect (1) the licensee's civil or criminal liability or (2) the commissioner's ability to impose administrative penalties for acts committed before the surrender.

The bill specifies that mortgage originators, brokers, lenders, correspondent lenders, and loan processors or underwriters seeking to surrender their licenses must file a request to surrender on the system in accordance with law. For purposes of the commissioner's authority regarding proceedings for license suspension, revocation, or refusal to renew, the bill treats a request to surrender by such mortgage licensees

the same as a surrender by other licensees.

Current law requires mortgage lender, correspondent lender, and broker licensees who intend permanently to stop engaging in the business of making residential mortgage loans or acting as a mortgage broker for any cause, including bankruptcy, license revocation, or voluntary dissolution, to file a license surrender request on the system for each office where the licensee intends to cease to do business. The bill deletes this requirement for licensees who intend to stop doing business due to a license revocation.

The bill also applies similar requirements to mortgage loan originators and, effective October 1, 2011, loan processors or underwriters. It requires such licensees who intend permanently to stop engaging in the business of a mortgage loan originator or the activities of a loan processor or underwriter, respectively, during a license period for any cause, including bankruptcy, to file a license surrender request on the system. As is the case under the law for lenders, correspondent lenders, and brokers, the bill (1) requires the licensees to file the surrender request within 15 days after stopping business, (2) provides that the requirement does not apply to those whose licenses have been suspended, and (3) provides that a surrender is not effective until the commissioner accepts it.

EFFECTIVE DATE: Upon passage

§ 8 — Mortgage Loan Originator Definition

The banking law defines a mortgage loan originator as someone who for compensation or gain, or the expectation of compensation or gain, (1) takes a residential mortgage loan application or (2) offers or negotiates residential mortgage loan terms. The bill narrows the definition in one respect and broadens it in another.

Under current law, the definition of mortgage loan originator does not include someone engaged solely as a loan processor or underwriter, except for those acting as independent contractors. The bill deletes the exception for independent contractors, thus providing

that individuals engaged solely as loan processors or underwriters (including independent contractors) are not mortgage loan originators.

Current law also excludes from the definition of mortgage loan originator someone who only renegotiates terms for existing mortgages and does not otherwise act as an originator, unless the U.S. Department of Housing and Urban Development (HUD) or a court determines the individual needs to be licensed under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008. The bill narrows this exclusion, adding the requirement that the individual renegotiates existing mortgage terms on a mortgagee's behalf.

EFFECTIVE DATE: October 1, 2011

§ 10 — Mortgage Loan Originator Licensing

With certain exemptions, current law requires mortgage loan originators to be licensed. The bill specifies that this requirement applies to those engaging in the business of a mortgage loan originator on a sponsor's behalf (see below for sponsorship changes).

The bill also specifies that the originator licensing requirement applies to those engaging in the business of mortgage loan origination with respect to any loan primarily for personal, family, or household use that is secured by a mortgage or other consensual security interest on a dwelling as defined in the federal Consumer Credit Protection Act (CCPA), or residential real estate upon which a dwelling, as defined in that act, is built or intended. Current law applies the licensing requirement to those engaging in the business of mortgage loan origination with respect to a dwelling as defined in the CCPA. The CCPA defines a dwelling as a residential structure or mobile home containing one to four family housing units or individual units of condominiums or cooperatives (15 U.S.C. § 1602).

Under current law, a mortgage loan originator license is not effective during any period when the originator is not sponsored by a licensed lender or broker. The bill also allows individuals or entities who are exempt from mortgage licensing requirements, and who

register on the system as exempt registrants for sponsoring purposes, to serve as sponsors.

EFFECTIVE DATE: October 1, 2011

§ 11 — Exemptions from Lender, Correspondent Lender, and Broker Licensing

By law, various financial institutions are exempt from the mortgage licensing requirements. The exemption applies to any bank or out-of-state bank or Connecticut, federal, or out-of-state credit union, as long as the bank or credit union is federally insured, as well as to certain subsidiaries.

The bill specifies that this exemption applies to licensing as a mortgage lender, correspondent lender, or broker. It also extends the exemption to two new categories. The bill exempts debt negotiation licensees, or anyone exempt from such licensure, who are negotiating or offering to negotiate residential mortgage terms as authorized by law. It also exempts anyone engaged solely in providing loan processing or underwriting services to licensed lenders, correspondent lenders, brokers, or financial entities exempt from such licensure as mentioned above.

The bill also allows such exempt persons, as well as other individuals or entities that are exempt from lender or correspondent lender licensing requirements (see BACKGROUND) to register on the system as an exempt registrant for purposes of sponsoring a mortgage loan originator or loan processor or underwriter without affecting the person's licensure exemption.

EFFECTIVE DATE: October 1, 2011

§§ 12, 18 — Application or Name Change Requirements for Lenders, Correspondent Lenders, and Brokers

In connection with an application for a mortgage lender, correspondent lender, or broker license, the bill limits the need to file a bond with the commissioner to only an initial license application for

the licensee's main office.

The bill also specifies that when such licensees seek to change their name or address most recently filed in the system, they only need to provide the commissioner with a bond rider or endorsement to the surety bond on file if the change relates to a main or branch office. The bill also allows them to file an addendum to the surety bond. The bond rider, endorsement, or addendum must reflect the new name or address of the main or branch office (see discussion of section 21 for more changes to the surety bond requirement).

Current law requires such applicants to submit information required by the commissioner pertaining to the background of the applicant as well as the applicant's principals, employees, and mortgage loan originators. The bill adds to this list background information pertaining to the applicant's loan processors or underwriters.

EFFECTIVE DATE: Upon passage

§§ 14, 15 — Automatic License Suspension

The bill allows the commissioner to automatically suspend the license of a mortgage lender, correspondent lender, broker, originator, or loan processor or underwriter if the licensee receives a deficiency on the system indicating that the required license renewal payment was returned or not accepted. The commissioner must notify the licensee of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to law and an opportunity for a hearing in accordance with law. After such a suspension, the commissioner must also require the licensee to take or refrain from taking actions that, in his opinion, would effectuate the law's purposes.

EFFECTIVE DATE: October 1, 2011

§ 16 — License Abandonment

By law, the commissioner may deem mortgage lender, correspondent lender, broker, and originator license applications

abandoned and keep the application fee if the applicant fails to respond to any request for information under the mortgage licensing statutes or regulations. The bill extends this provision to applications for loan processor or underwriter licenses. It also extends it to requests for information under the law or regulations regarding participation in the system and notice of discriminatory lending practices.

The law requires the commissioner to notify the applicant in writing that the application is deemed abandoned if the information is not submitted within 60 days. The bill specifies that the notice must be on the system.

By law, abandonment does not prevent the applicant from submitting a new application.

EFFECTIVE DATE: Upon passage

§ 17 — *Prelicensing Education, Testing, and Continuing Education*

By law, mortgage lenders, correspondent lenders, and brokers seeking licensure must have qualified individuals at the main office and branch managers at each branch office who (1) meet certain experience requirements, (2) have completed prelicensing education requirements, and (3) have passed a written test developed by the system. Mortgage loan originator applicants must also complete prelicensing education requirements and pass a written test to be licensed and meet continuing education requirements for license renewal.

The bill makes several changes related to these requirements.

Extension of Requirements. The bill extends to loan processor or underwriter applicants and licensees the requirements described above that apply for originator applicants and licensees, respectively. It also extends the continuing education requirement to qualified individuals and branch managers.

Course or Test Site. The bill specifies that prelicensing and

education courses may be provided by the employer of the individual taking the test or the employer's subsidiary or affiliate, if such courses are approved by the system. It allows a system-approved test provider to provide a test at the tested individual's (1) employer, (2) a subsidiary or affiliate of the employer, or (3) any entity where the tested individual acts as a qualified individual or branch manager.

Retaking the Test. The bill increases, from three to four, the number of consecutive times an individual may retake a test, with each consecutive test occurring at least 30 days after the previous test, before the individual must wait at least six months to retake the test.

Current law requires a licensed mortgage lender, correspondent lender, broker, or originator who fails to maintain a valid license for five years or longer, not counting any time while the individual is a registered mortgage loan originator, to retake the test. The bill instead requires the following people to retake the test:

1. someone who (a) was licensed after the prelicensing and testing requirements took effect and (b) has not been licensed as a mortgage loan originator within the five years before filing an application for an originator license, not counting any time he or she was a registered mortgage loan originator;
2. a qualified individual or branch manager, who (a) held that position after the prelicensing education and testing requirements took effect, and (b) has not held that position within the five years before the filing on the system designating the individual as a qualified individual or branch manager, unless (c) he or she was a licensed mortgage loan originator during those five years, not counting time he or she was a registered mortgage loan originator; and
3. someone licensed as a loan processor or underwriter who applies to be licensed again, if he or she was not licensed as a loan processor or underwriter within the five years before the application, not counting any time he or she is engaged in loan

processing or underwriting but not required to be licensed by the bill.

Course Credit. The bill allows qualified individuals, branch managers, and licensed loan processors or underwriters to receive credit for a continuing education course only in the year in which the course is taken and prohibits them from taking the same approved course in the same or successive years to meet the annual continuing education requirements. However, other provisions of law can provide otherwise. It also allows qualified individuals, branch managers, or licensed loan processors or underwriters who are approved instructors of an approved continuing education course to receive credit for their own annual continuing education requirement at the rate of two hours credit per one hour taught. These provisions already apply to mortgage loan originators.

Renewal Requirements. The bill requires previously licensed loan processors or underwriters to complete the continuing education requirements for the last year in which they held the license before they may receive a license or renewal license. This requirement already applies to mortgage loan originators.

The bill provides continuing education requirements for someone who was licensed under the mortgage licensing statutes after the prelicensing and testing requirements took effect, is no longer licensed, and is applying for relicensing. Such people must prove that they completed the continuing education requirements for the year in which they last held the license.

The bill requires a qualified individual or branch manager who no longer holds such a position to complete the continuing education requirements for the last year in which he or she held the position before the individual can hold such a position again. It also requires an individual who previously held a position as a qualified individual or branch manager after the effective date of the prelicensing and testing requirements to complete all continuing education requirements for the year in which the individual last held such a position, before the

individual may hold such a position again.

EFFECTIVE DATE: Upon passage, except the requirements apply to loan processors or underwriters starting October 1, 2011.

§ 19 — Filing with the System or Commissioner

The law requires mortgage loan originator licensees to promptly file with the system or notify the commissioner in writing if certain things occur. The bill also requires such filing or notice for any change in the information most recently submitted in connection with the license. It also extends these requirements to loan processor or underwriter licensees.

By law, the filing or notification is required upon:

1. the licensee's filing for bankruptcy;
2. the filing of a criminal indictment against the licensee; or
3. the licensee's receiving notice of the institution of license or registration denial, cease and desist, suspension, or revocation procedures, other formal or informal regulatory actions by a government agency, or actions by any state's attorney general against the licensee and the reasons for such proceedings.

EFFECTIVE DATE: Upon passage, except the requirements apply to loan processors or underwriters starting October 1, 2011

§ 20 — Originator Licensing Fee Refunds

Current law provides that originators may receive a refund for fees paid for a license that is not sponsored by a lender, correspondent lender, or broker. Otherwise, mortgage licensing fees are not refundable. The bill deletes the exception for unsponsored originators, thus making nonrefundable all licensing fees for originators, as well as lenders, correspondent lenders, brokers, and loan processors or underwriters.

EFFECTIVE DATE: October 1, 2011

§ 21 — Surety Bonds

By law, mortgage lender, correspondent lender, and broker licensees must file surety bonds with the banking commissioner. Mortgage loan originators must also be covered by surety bonds, with the coverage provided through the sponsor's bond. The bonds must be written by a surety authorized to write bonds in the state, and the attorney general must approve the bonds' form.

The bill specifies that each licensed mortgage lender, correspondent lender, and broker must file a single surety bond covering its main office, as well as an addendum to the bond covering any branch office. It also requires such bonds to cover all originators the licensee sponsors. It specifies that the bond runs concurrently with the period of the license for the licensee's main office.

The bill allows originators to be covered by a surety bond through exempt registrant sponsors, as well as lender, correspondent lender, and broker sponsors. For all exempt registrants, the bill requires the bond to cover all originators they sponsor.

The bill requires the principal on a bond to confirm annually that it maintains the required penal sum as established by the bill. By September 1, 2011 for licensees, or September 1, 2012 for exempt registrant sponsors, and every September first after that, the principal must file information as the commissioner requires. By September 1 of the applicable year, or another date the commissioner requires, the principal must file a bond rider or endorsement to the surety bond on file to reflect any necessary changes to maintain the bill's required surety bond coverage.

Under current law, the penal sum of the required bonds must be maintained in an amount that reflects the amount of loans originated by the licensee or originator, as determined by the commissioner. The bill changes the required bond penal sums, in the following amounts.

Lender, Correspondent Lender, and Broker Applicants. For applicants for an initial mortgage lender or correspondent lender

license, the required amount is \$100,000. For initial mortgage broker applicants, the required amount is \$50,000. For all such applicants, the amount is in connection with its application for its main office.

Exempt Registrants Upon First Sponsorship. Effective October 1, 2011, individuals or entities who are exempt from licensure, and who register on the system as an exempt registrant for purposes of sponsoring a mortgage loan originator or loan processor or underwriter, must file bonds in the following penal sums:

1. federally insured banks or credit unions, as well as certain subsidiaries of such entities, that are exempt from mortgage lender, correspondent lender, or broker licensing requirements (see discussion of section 11 above): \$100,000, required the first time the registrant sponsors a mortgage loan originator; and
2. various individuals or entities that are exempt from mortgage lender or correspondent lender licensing requirements, such as anyone making five or fewer residential mortgage loans in a year and various entities that make mortgages for specified and limited purposes (see BACKGROUND): \$50,000, required the first time the registrant sponsors a mortgage loan originator.

All Sponsors. For (1) mortgage lender, correspondent lender, and broker licensees and (2) effective October 1, 2011, the exempt registrants described above who are sponsoring and bonding at least one originator, the bill ties the required bond amount to the aggregate dollar amount of the residential mortgage loans the licensee or exempt registrant originated in the preceding 12- month period ending July 31 of the current year, as shown in Tables 1 and 2. The bill specifies that for licensees, the aggregate amount includes all loans originated by the licensee at all licensed locations.

Table 1: Required Bond Amounts for Mortgage Lender Licensees, Correspondent Lender Licensees, and After October 1, 2011, Financial Entity Exempt Registrants

Aggregate Amount of Residential Mortgage	Penal Sum of Bond
---	--------------------------

<i>Loans Originated in Preceding Year</i>	
Less than \$30 million	\$100,000
\$30 million but less than \$100 million	\$200,000
\$100 million but less than \$250 million	\$300,000
\$250 million or more	\$500,000

Table 2: Bond Amounts for Mortgage Broker Licensees and After October 1, 2011, Specified Other Exempt Registrants

<i>Aggregate Amount of Residential Mortgage Loans in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$50,000
\$30 million but less than \$50 million	\$100,000
\$50 million or more	\$150,000

(See discussion of section 44, below, for bond requirements applying to licensed debt negotiators, or those exempt from such licensure, who negotiate or offer to negotiate residential mortgage terms and are exempt from mortgage lender, correspondent lender, or broker licensing requirements.)

The bill specifies that the aggregate amount of all residential mortgage loans originated by a licensee, or, after October 1, 2011, by an exempt registrant, includes the aggregate amount of all closed residential mortgage loans that the licensee or exempt registrant originated, brokered, or made, as applicable.

The bill requires principals to file with the commissioner, as he requires, financial information needed to verify the aggregate amount of residential mortgage loans originated. This information must also be reported on the system at the time and in a form the system requires.

The bill allows the commissioner to require a change in the penal sum of the bond if he determines that the aggregate dollar amount of all residential mortgage loans originated warrants such a change.

Bond Cancellation. By law, a surety company can cancel a bond. The bill makes a conforming change to reflect that the company must

notify the principal on the bond before cancelling, whether the principal is a licensee or exempt registrant. Before cancelling, the surety company must also notify the commissioner, who must then provide written notice of the cancellation date to the principal. The bill specifies that this notice counts as notification to each originator licensee that the principal sponsors.

Under current law, the commissioner must automatically suspend a lender, correspondent lender, or broker's license on the bond cancellation date unless the licensee, before that date, (1) submits either a letter of bond reinstatement from the surety company or a new bond or (2) the licensee has stopped business and surrendered its license in accordance with law. The bill provides that on the bond cancellation date, the commissioner must also inactivate the licenses of the mortgage originators that the licensee or exempt registrant sponsors. The inactivation does not occur if the principal complies with (1) above or the licensee sponsor complies with (2) above by surrendering all licenses.

The license of a mortgage loan originator who was sponsored by (1) a licensee that was automatically suspended or (2) an exempt registrant who failed to provide the required bond, is not inactivated if the sponsorship has ended and a new sponsor had been requested and approved.

The bill allows the commissioner to provide information to the exempt registrant about actions he takes related to a bond cancellation against an originator licensee for which the exempt registrant has provided sponsorship and a bond.

EFFECTIVE DATE: July 1, 2011, except the requirements apply to exempt registrants on October 1, 2011.

§ 27 — Challenges to System Information

Current law requires the commissioner to establish a process for mortgage lenders, correspondent lenders, brokers, and originators to challenge information the commissioner enters into the system. The

bill deletes the reference to a commissioner-established process, and instead provides that such mortgage professionals, as well as loan processors or underwriters, may challenge information the commissioner enters into the system.

The bill provides that the challenge must be in writing, to the commissioner. The challenge must include the specific challenged information and evidence supporting the challenge. The bill limits the challenge to the factual accuracy of information within the system. It requires the commissioner to promptly correct information entered into the system that he determines is factually inaccurate.

The bill specifies that these provisions do not allow someone to challenge the merits or factual basis of an administrative action the commissioner takes pursuant to the banking laws.

EFFECTIVE DATE: Upon passage, except the provision is effective for loan processors or underwriters on October 1, 2011.

OTHER LICENSEES

§§ 29, 32, 34, 35, 38, 40, 47 — *License Abandonment for Failure to Provide Information*

The bill allows the banking commissioner to deem an application for specified licenses abandoned if the applicant fails to respond to any request for information under the applicable statutes or regulations adopted under those statutes. The licenses are for sales finance companies, small loan lenders, check cashing businesses, money transmission or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agencies.

The bill requires the commissioner to notify the applicant in writing that the application is deemed abandoned if the information is not submitted within 60 days. It allows the Banking Department to keep the application fee for abandoned applications but provides that abandonment does not prevent the applicant from submitting a new application.

EFFECTIVE DATE: October 1, 2011

§§ 29, 32, 34, 35, 38, 40, 47 — Criminal History Information and Background Checks

The bill requires applicants for sales finance companies, small loan lenders, check cashing businesses, money transmission or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agency licenses to include a complete history of criminal convictions for the applicant and specified individuals connected with the applicant. Current law requires applicants to submit a history of criminal convictions for only the 10-year period preceding the application.

The bill also authorizes the banking commissioner to conduct state and national criminal background checks on applicants for these licenses and certain other individuals connected to the applicants. The criminal background check must comply with current requirements for background checks.

By law, state background checks are conducted by the State Police Bureau of Identification. National background checks are conducted by the Federal Bureau of Investigation.

EFFECTIVE DATE: October 1, 2011

§§ 30, 31, 34, 36, 38, 40, 47 — Banking Commissioner's Authority to Deny Application Based on Criminal Convictions

By law, the banking commissioner may deny applications for sales finance companies, small loan lenders, check cashing businesses, money transmission or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agency licenses if the commissioner finds that the applicant or specified individuals connected with the applicant have been convicted of (1) a misdemeanor involving any aspect of the business for which the applicant seeks licensure or (2) a felony. The bill extends this to any such conviction, not just those falling within the 10 years preceding the application. Any such license denial must comply with current law on

license denials due to criminal convictions.

EFFECTIVE DATE: October 1, 2011

§ 36 — Money Transmission or Connecticut Payment Instrument Issuer Applicant Misdemeanor Convictions

The bill expands the type of misdemeanor that could lead to denial of a license for money transmission or payment instrument issuer applicants. Current law specifies that the misdemeanor must involve an aspect of the money transmission business or the business of issuing Connecticut payment instruments. The bill allows a misdemeanor involving the business of issuing any payment instrument, not just a Connecticut instrument, to serve as the basis to deny the application.

EFFECTIVE DATE: October 1, 2011

§ 47 — Consumer Collection Agency Applicants Criminal History Information

The bill adds to the list of people required to submit criminal history information in connection with an application for a consumer collection agency license. Depending on the form of the proposed business, partners, members, officers, directors, and principal employees, as well as applicants, must submit (1) a history of their criminal convictions and (2) sufficient information about that history in a form acceptable to the banking commissioner. The bill also requires the commissioner to inquire into such individuals' qualifications, and allows him to deny an application due to any such individual's criminal conviction. Current law imposes these requirements only for applicants.

The bill also allows the commissioner to require all such individuals to submit to criminal background checks, as outlined above.

EFFECTIVE DATE: October 1, 2011

§ 5 — Debt Negotiation – Examination Costs

The bill adds debt negotiators to the list of licensees who must pay

to the banking commissioner the actual cost of any examination of the licensee, as the commissioner determines the cost. As with other licensees specified by law, the bill allows the commissioner to suspend a debt negotiation license for failure to pay the cost of any examination within 60 days of receiving the commissioner's demand for payment.

EFFECTIVE DATE: Upon passage

§ 15, 40, 41 — Debt Negotiation – Scope and Mortgage Origination

The law requires someone who is engaging or offering to engage in debt negotiation in the state to be licensed.

Under current law, someone whose place of business is located outside of Connecticut is considered to be engaging in debt negotiation in Connecticut if (1) the debtor is a Connecticut resident who negotiates or agrees to the terms of the services contract in person, by mail, by telephone, or via the Internet while physically present in this state; or (2) the contract concerns a debt that is secured by property located in Connecticut. The bill deletes the requirement that the debtor be physically present in Connecticut when negotiating or agreeing to terms. The bill also deletes the requirement of a contract, referring to services instead.

The bill prohibits anyone who is not a licensed mortgage loan originator, or exempt from such licensure, from engaging or offering to engage in debt negotiation of a residential mortgage loan on a mortgagor's behalf, for or with the expectation of compensation or gain. The bill also prohibits debt negotiation licensees, or those exempt from licensure, from allowing anyone who is not a licensed originator or exempt from such licensure to engage or offer to engage in such activity, for or with the expectation of compensation or gain.

The bill provides that anyone who engages in debt negotiation as specified above and who is required to be licensed as a mortgage loan originator must comply with all of the law's requirements for originator licensees. Such individuals must also meet the surety bond requirements that apply to originators and debt negotiators.

EFFECTIVE DATE: October 1, 2011

§ 37, 43 — Debt Adjustment and Negotiation – Modification of Attorney Exemption

Current law exempts attorneys admitted to practice in Connecticut from debt adjustment or negotiation licensing when engaged in such activities. The bill narrows this exemption by specifying that it only applies if the attorney engages in debt adjustment or negotiation as an ancillary matter to the attorney's representation of a client.

EFFECTIVE DATE: October 1, 2011

§ 42 — Debt Negotiation – Commissioner Enforcement

By law, the commissioner may suspend, revoke, or refuse to renew a debt negotiation license or take any other action, in accordance with the applicable banking statutes, in specified circumstances. These include any reason that would be sufficient grounds for the commissioner to deny a license application under the debt negotiation laws. The bill adds to this the provisions above concerning mortgage loan originators (or those exempt from such licensure) who engage or offer to engage in debt negotiation of a residential mortgage loan on a mortgagor's behalf, for or with the expectation of compensation or gain.

Additionally, the commissioner may take action against the person or licensee in accordance with his general powers under the banking statutes whenever it appears (among other reasons) that a person has violated, is violating, or is about to violate the debt negotiation laws. The bill adds to this list the provisions on originators referenced in the previous paragraph. It also specifies that for purposes of those provisions as well as other provisions of the debt negotiation laws, each engagement and offer to engage in debt negotiation constitutes a separate violation.

Current law allows the commissioner, upon complaint, to review fees or charges assessed by a person offering debt negotiation services and order a reduction or repayment of the amount that the

commissioner deems excessive, taking into consideration the fees that others performing similar debt negotiation services charge for such services and the benefit of the services to the consumer. He can do this under his general power to conduct investigations. The bill allows the commissioner to review any fees or charges assessed by a person engaging or offering to engage in debt negotiation services (rather than just offering such services).

EFFECTIVE DATE: Upon passage

§ 44 — Debt Negotiation – Surety Bond

Current law requires applicants for a debt negotiation license or renewal license to file with the commissioner a surety bond in the aggregate amount of \$40,000 for all licensed locations in order for a license or renewal to be granted. The bill instead requires the surety bond in connection with the license application or licensing of the main office, and requires applicants and licensees to identify branch offices as bonded locations by addendum to the required main office surety bond.

The bill also raises the required amount of the bond. Initial applicants for a debt negotiation license must file a bond in a penal sum of at least \$50,000.

Debt negotiation licensees who (1) are sponsoring and bonding at least one mortgage loan originator; (2) are exempt from licensing as a mortgage lender, correspondent lender, or broker; and (3) are registered as exempt registrants for sponsoring purposes, must file a bond in the amounts shown in Table 3. The amounts are tied to the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated by all sponsored mortgage loan originators during the preceding 12-month period ending July 31. The bill specifies that the aggregate amount of all residential mortgage loans negotiated or offered to be negotiated is the aggregate underlying dollar amount of all residential mortgage loans for which a sponsored mortgage loan originator provides debt negotiation services.

Table 3: Bond Amounts for Debt Negotiation Exempt Registrant Sponsors

<i>Aggregate Amount of Negotiated Residential Mortgage Loans in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$50,000
\$30 million but less than \$50 million	\$100,000
\$50 million or more	\$150,000

The bond principal must annually confirm that it maintains the required penal sum in the required amount. Annually, beginning September 1, 2012, a licensee must file with the commissioner such information as the commissioner requires to confirm that the penal sum of the bond remains consistent with the amount required by the bill. By September 1 of the applicable year, or another date the commissioner requires, the principal must file any bond rider or endorsement to the surety bond on file to reflect any necessary changes to maintain the required bond coverage.

Current law specifies that any filed surety bond must be conditioned upon the debt negotiation licensee faithfully performing any and all written agreements with debtors and conducting such business consistent with the debt negotiation laws. The bill extends these requirements to originator licensees that the debt negotiation licensee sponsors. It also extends these requirements to the faithful performance of all written agreements and commitments with or for the benefit of debtors and mortgagors, as applicable. This includes truly and faithfully accounting for funds the bond principal or sponsored originator receives from a debtor or mortgagor. It also extends these requirements to conducting business consistent with the law regarding mortgage licensing, participation in the system, and notice of discriminatory lending practices.

The bill extends to mortgagors the current law allowing debtors to proceed on any such surety bond against the principal or surety, or both, to recover damages for the failure to meet the requirements of the previous paragraph. It also allows debtors or mortgagors to take

such actions to recover damages for the wrongful conversion of funds that a debtor or mortgagor paid to a debt negotiation or originator licensee.

By law, the commissioner can proceed on any such surety bond against the principal or surety, or both, to collect any civil penalty imposed on the licensee pursuant to the banking statutes. The bill also allows him to do this to collect any unpaid examination costs of a licensee as determined by the banking statutes.

The bill requires the principal to notify the commissioner of the commencement of an action on the bond. When an action is begun, the commissioner may require the principal to file a new bond. The principal must file a new bond immediately on recovery on any action on the bond. The bill allows any mortgagor or prospective mortgagor damaged by a debt negotiation or originator licensee's failure to satisfy a judgment against the licensee arising from the negotiation of or offer to negotiate a nonprime home loan to proceed on the bond against the principal or surety, or both, to recover the judgment amount.

Current law allows a surety to cancel the bond at any time by a written notice to the licensee stating the effective date of the cancellation. It also requires the commissioner, after the surety notifies him of the effective date of a bond cancellation at least 30 days before the cancellation, to give written notice to the licensee of the cancellation date. The bill specifies that these notifications must be given to debt negotiation licensee.

Current law requires the commissioner to automatically suspend the license on the cancellation date, unless before then the licensee (1) submits a new bond or a letter of bond reinstatement from the surety or (2) surrenders the license. The bill requires the commissioner to suspend the licenses of the debt negotiation licensee, and inactivate the sponsored originator's license, unless the debt negotiation licensee takes actions (1) or (2) above (including surrendering all licenses), or for sponsored originators, the sponsorship has ended and a new sponsor has been requested and approved. The bill also specifies that

the commissioner's required actions after an automatic suspension concern the debt negotiation licensee.

The bill requires financial information needed to verify the aggregate amount of residential mortgage loans negotiated or offered to be negotiated (1) to be filed with the commissioner as he requires and (2) to be reported on the system when and in the form the system requires. The commissioner may require a change in the penal sum of the bond if he determines that the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated warrants such a change.

The bill also allows the commissioner to adopt regulations with respect to the law's requirements for debt negotiation surety bonds.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Exemption from Mortgage Lender or Correspondent Lender Licensing

In addition to those listed above who are exempt from mortgage licensing requirements, the following are exempt from licensure as a mortgage lender or correspondent lender:

1. people or entities making five or fewer residential mortgage loans within any 12-month period;
2. bona fide nonprofit corporations making residential mortgage loans to promote home ownership for economically disadvantaged people;
3. federal, state, municipal, or quasi-governmental agencies making residential mortgage loans under the authority of federal or any state's law;
4. people or entities licensed as small loan lenders when making residential mortgage loans authorized by law;

5. people or entities owning real property who take back from the buyer of such property a secondary mortgage loan in lieu of any portion of the purchase price;
6. a corporation or its affiliate that makes residential mortgage loans exclusively for its employees' or agents' benefit;
7. a licensed insurance company or health care center, or its affiliate or subsidiary, that makes residential mortgage loans to promote home ownership in urban areas;
8. people or entities acting as fiduciaries for any employee pension benefit plan qualified under the Internal Revenue Code, who make residential mortgage loans solely to plan participants from plan assets; and
9. people making secondary mortgage loans to individuals related to them by blood or marriage.

Prohibited Actions for Mortgage Professionals

The law prohibits anyone required to be licensed under the mortgage licensing laws from:

1. directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
2. engaging in any unfair or deceptive practice toward any person;
3. obtaining property by fraud or misrepresentation;
4. soliciting or entering into a contract with a borrower that provides in substance that the person or individual may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;
5. soliciting, advertising, or entering into a contract for specific interest rates, points, or other financing terms unless the terms

are actually available at the time of solicitation, advertisement, or contracting;

6. conducting any business as a specified professional without holding a valid license, or assisting or aiding and abetting any person in the conduct of such businesses without a valid license;
7. failing to make disclosures as required by the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices, and any other applicable state or federal law or regulation;
8. failing to comply with the laws or regulations on mortgage licensing, participation in the system, and notice of discriminatory lending practices, or other state or federal law or regulations applicable to the business of mortgage professionals;
9. making, in any manner, false or deceptive statements or representations including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engaging in bait and switch advertising;
10. negligently making false statements or knowingly and willfully omitting any material fact in connection with any information or reports filed with a government agency or the system, or in connection with an investigation conducted by the commissioner or another government agency;
11. making any payment, threat, or promise, directly or indirectly,
 - (a) to any person for the purposes of influencing that person's independent judgment in connection with a residential mortgage loan, or
 - (b) to any appraiser to influence the appraiser's independent judgment with respect to a property's value;
12. collecting, charging, or attempting to collect, charge, use, or propose any agreement purporting to collect or charge any fee prohibited by the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices;

13. causing or requiring a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or
14. failing to truthfully account for monies belonging to a party to a residential mortgage loan transaction.

Requirements Related to Nationwide Mortgage Licensing System

The bill extends to loan processors or underwriters the following requirements related to the system. These requirements currently apply to mortgage lenders, correspondent lenders, brokers, and originators:

1. providing that the banking commissioner must require loan processors or underwriters to be licensed and registered through the system and allow the system to process applications for and maintain records on them;
2. allowing the commissioner to establish requirements needed for participating in the system, including background checks, system licensing fees, license renewal or reporting dates, and requirements for amending or surrendering a license or other activities as the commissioner deems necessary for participating in the system;
3. for the purpose of participating in the system, allowing the commissioner to waive or modify by regulation or order any requirement of the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices, and to establish new requirements as reasonably necessary to participate in the system;
4. for the purpose of implementing an orderly and efficient licensing process, allowing the commissioner to adopt licensing regulations and interim procedures for licensing and acceptance of applications;

5. for previously licensed individuals, allowing the commissioner to establish expedited review and licensing procedures;
6. requiring the commissioner to report regularly to the system on violations of, and enforcement actions under, the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices, and other relevant information;
7. allowing the commissioner to establish relationships or enter into contracts with the system or other system-designated entities to collect and maintain records and process transaction fees or other licensing-related fees;
8. for purposes of the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices, and to reduce the points of contact that the FBI may have to maintain to comply with the law's background check requirements, allowing the commissioner to use the system as a channeling agent for requesting information from and distributing information to any government agency;
9. for the purposes listed in (8) above and to reduce the points of contact that the commissioner may have to maintain to comply with the law's background check requirements, allowing the commissioner to use the system as a channeling agent for requesting information from and distributing information to any source;
10. providing that licensing-related filings must be submitted exclusively through the system, in accordance with the system's procedures, requirements, and fees; and
11. requiring mortgage licensees to submit to the system condition reports that contain information required by, and are in the form required by, the system.

Residential Mortgage Fraud

By law, a person commits residential mortgage fraud when, for financial gain and with the intent to defraud, the person:

1. knowingly makes a material written misstatement, misrepresentation, or omission during the mortgage lending process with the intention that a mortgage lender, correspondent lender, broker, borrower, or anyone else involved in the mortgage lending process will rely on it;
2. knowingly uses, facilitates the use, or attempts to use or facilitate the use of a written misstatement, misrepresentation, or omission during the mortgage lending process with the intention that a mortgage lender, correspondent lender, borrower or anyone else involved in the mortgage lending process relies on it;
3. receives or attempts to receive proceeds or other funds in connection with a residential mortgage closing that the person knew or should have known resulted from an act or acts constituting residential mortgage fraud; or
4. conspires with or solicits another to engage in an act or acts constituting residential mortgage fraud.

Residential mortgage fraud is either a class D felony (for a single act) or a class C felony (multiple acts).

Investment Advisers

State securities law defines an investment adviser as anyone who, for compensation, (1) engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, buying, or selling securities or (2) as part of a regular business, issues or promulgates analyses or reports about securities. This definition tracks the definition in the federal Investment Advisers Act.

Both federal and state law also specify several exclusions from the

definition. With minor variations, both exclude:

1. a bank, or bank holding company as defined in the Bank Holding Company Act of 1956, which is not an investment company, except to the extent that such entity serves or acts as an investment adviser to a registered investment company (but if a bank provides such services through a separately identifiable department or division, the department or division, and not the bank itself, is deemed to be the investment adviser);
2. a lawyer, accountant, engineer, or teacher whose performance of such services is solely incidental to the practice of his or her profession;
3. a broker-dealer whose performance of such services is solely incidental to the conduct of his or her business as a broker-dealer and who receives no special compensation for such services;
4. the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation (state law specifies that the circulation must be paid);
5. any person whose advice, analyses, or reports relate only to certain government-issued or guaranteed securities (the specifics differ for state and federal law);
6. such other persons not within the intent of the applicable federal or state provisions as the Securities and Commission or the state banking commissioner, respectively, may designate.

State law also excludes (1) investment adviser agents and (2) insurance companies supervised by the insurance commissioner, or their affiliates, when providing services to separate accounts of that insurance company or registered investment companies all of whose shares are owned by the insurance company or its affiliates or by the separate accounts of that insurance company or its affiliates.

Federal law also excludes any nationally recognized statistical

rating organization, as that term is defined in the Securities Exchange Act of 1934, unless the organization engages in issuing recommendations as to buying, selling, or holding securities or in managing assets, consisting in whole or in part of securities, on behalf of others.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/15/2011)